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THE

# WORKS

OF THE

RIGHT REVEREND

# WILLIAM WARBURTON, D.D.

LORD BISHOP OF GLOUCESTER.

A NEW EDITION,

IN TWELVE VOLUMES.

TO WHICH IS PREFIXED

*A DISCOURSE BY WAY OF GENERAL PREFACE;*

CONTAINING

SOME ACCOUNT OF THE LIFE, WRITINGS, AND CHARACTER OF THE AUTHOR;

*BY RICHARD HURD, D.D.*

LORD BISHOP OF WORCESTER.

VOLUME THE SEVENTH.

ASTOR LIBRARY NEW-YORK

London:

*Printed by Luke Hansard & Sons, near Lincoln's-Inn Fields,*

FOR T. CADELL AND W. DAVIES, IN THE STRAND.

1811.

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THE

# ALLIANCE

BETWEEN

# CHURCH AND STATE:

OR,

*THE NECESSITY AND EQUITY*

OF

# AN ESTABLISHED RELIGION

AND

# A TEST LAW

*DEMONSTRATED.*

## IN THREE BOOKS.

True *Faith*, true *Policy*, UNITED ran;
That was but love of God, and This, of Man.
POPE.

## BOOK I.

### OF THE NATURE AND END OF CIVIL AND OF RELIGIOUS SOCIETY.

## BOOK II.

### OF AN ESTABLISHED CHURCH.

## BOOK III.

### OF A TEST LAW.

# PREFACE

## TO THE FIRST EDITION IN 1736.

IF the *Form* or *Matter* of the ensuing Discourse may be thought to stand in need of further Apology than that general one of the Author's weaknesses and imperfections, which is always decent, and almost always necessary, to make to the Reader, I desire this following Advertisement may pass with him for such. As to the Form, the subject being of the greatest weight and gravity in itself, and here treated abstractedly, I have aimed at nothing, in the style, but exactness in the expression, and clearness in the construction: Content to have it without further ornament than what Truth bestows upon it; and it being capable of affording Science; I have not only preserved strictness of method, but have not been over studious to decline even the Formality of it. Now these are Circumstances which, though they assist the gentle *Reader* in the Intelligence of the Discourse, yet render his employment less agreeable and amusing. But this is not the worst. For, relying on the strength of my demonstration, I have laboured to contract the Discourse within such a compass as that the whole may be commodiously read at once. But it treating of a great variety of particulars, I was necessitated to be very brief in many points of importance: which had been inexcusable had not my subject confined me to qualified

Readers, and my choice led me to such as a great Ancient requested for judges of his Writings, *Tales meorum scriptorum velim judices qui responsionem non semper desiderent, quum, his quæ leguntur, audierint aliquid contradici.*

As to the *Matter*; Writing in an age that, of all others, seems most to be attentive to disengage itself from prejudices, enlarge its views, and follow truth and nature whithersoever they lead; to so just, so generous, and prevalent a spirit, I shall have the less occasion to apologize for the latitude of my theory. But this is the peculiar happiness of our own times. It was not always so. When Dr. Taylor, about a century ago, composed his Liberty of prophesying in defence of Religious Toleration (the first book on that subject wrote on reasonable principles), though he had so strongly vindicated the Right, and that in favour of the *Established Church* under oppression and persecution; which had been overthrown for the want of a *Test-Law* to secure her; yet such was the strange perversity of *some men*, at that time, that the great Author was accused and calumniated for having vindicated their right of serving God according to their Consciences; because he did it on Principles which made that Right extensive to all the rest of mankind. They would accept of Toleration on no other terms but because they were the *true Church*. I find my engagement to be much the same with this excellent Writer's. When attempts had been, and are still making, to violate the immunities of the *Established Religion*, which have proved so far successful as to induce a very prevailing opinion that *it*, with its attendant, a *Test-Law*, was a violation of the law of nature and nations, I presumed, very unworthy as I am, to stand up in its defence. And to do

do this to more advantage, I have all along reasoned, on the principles of our adversaries themselves, to prove that an *Established Church* and a *Test* are agreeable to those Laws, whether such Church be the true one or no. So far, I say, we are alike. But as greatly as that Author has the advantage of me in the noble elegance, learning, and force of his composition, which, I truly think, is as great as can well be; so greatly have I the advantage of him in the felicity of the times I write in. That narrow, sour, ignorant spirit of bigotry, blessed be God, is now no more. A learned one, of liberty, and Christian charity, universally prevails. So that that freedom of thought, which then gave so much offence, now creates a prepossession altogether favourable to the Writer. But if, after all, I should chance to be mistaken in the humour of the times, as it would be no great wonder if I should, the words of this illustrious Writer, with a little alteration, will be my best apology.—" When a persecution (says he, in his " general Epistle to his Polemical discourses) did " arise against the Church of *England*, and that I " intended to make a defensative for my Brethren " and myself, by pleading for a liberty to our con- " sciences to persevere in that profession which was " warranted by all the laws of God and our Supe- " riors, some men were angry and would not be safe " that way, because I had made the roof of the sanc- " tuary so wide that more might be sheltered under " it than they had a mind should be saved harm- " less: men would be safe alone or not at all, sup- " posing that their truth and good cause was warranty " enough to preserve itself. And they thought true, it " was indeed warranty enough against persecution, if " men have believed it to be the truth. But because

" we were fallen under the power of our worst ene-
" mies, they looked upon us as men in mispersua-
" sion and error; and therefore I was to defend our
" persons, that whether our cause was right or wrong
" (for it would be supposed wrong) yet we might be
" permitted in liberty and impunity. But then the
" consequent would be this, that if we, when we were
" supposed to be in error, were yet to be indemp-
" nified, then others also, whom we thought as ill
" of, were to rejoice in the same Freedom, because
" this equality is the great instrument of justice. Of
" this, some men were impatient; and they would
" have all the world spare them, and yet they would
" spare nobody. But because this is too unrea-
" sonable I need no excuse for my writing to other
" purposes.—I CANNOT REPENT ME OF SPEAK-
" ING TRUTH, OR DOING CHARITY."

# DEDICATION

## TO THE EDITION OF

## 1748.

TO THE

RIGHT HONOURABLE

## PHILIP

## EARL OF CHESTERFIELD.

MY LORD,

THE only subjects worth a wise Man's serious notice, are RELIGION, and GOVERNMENT; such Religion and Government, I mean, as exclude not (which too often they do) MORALITY and POLITICKS; and these are subjects that, at the same time, most need his attention. For though they be ordained to one end, to perfect HUMANITY; yet, as they pursue it by different means, they must act in conjunction, lest the diversity of the means should retard or defeat the attainment of the concurrent end.

BUT then, the object of Religion being Truth, which requires liberty; and the object of Government, Peace, which demands submission; they seem naturally formed to counteract one another's operations.

HOWEVER, though their Natures, and consequently their Agency, be thus different, yet their Views being

the same, there seems to be no more reason against their POLITIC ALLIANCE than we see there was against the *physical union* of the Soul and Body, for whose distinct benefit each of those institutions was severally ordained. For though these two constituent parts of Man run counter, and frequently defeat each other's purpose; yet Reason can easily reconcile their jars, and teach them how to draw together; so as best to put in use and improve each other's Faculties: the Body supplying the Mind with organs of sensation; and the Mind, the Body with the active principle of spontaneous motion.

The chief design of the following Discourse is to shew, that the like important uses may be derived from an UNION BETWEEN CHURCH AND STATE: and to explain upon what Principles these services are best procured. In doing this, I have still kept our own happy Constitution in my eye: and so, have escaped the danger which speculative Writers, intent only on their philosophic ideas, have incurred in framing their Utopian Societies.

And now, my Lord, being willing to leave behind me a Monument of my love to my Country, I have taken the privilege, arising from the principles here laid down, to appeal, from the Ecclesiastical, to a Lay-Tribunal, under the protection of a Character which is going down to posterity in the full lustre of those amiable qualities of humanity which Nature delights to throw round the Names of her distinguished Favourites.

It is an uncommon happiness when an honest man can congratulate a Patriot on his becoming Minister:

nister*: and what one would not, in conscience, overlook. When Ministers turn Patriots into Courtiers, it is a loss, to the Public, of a *good name*, at least: But when Patriots teach Courts public spirit, the loss of a *word* is well repaid by the good that word was supposed to imply. And now if such a one should be asked where is his Patriotism? he might well answer in the Spanish proverb,—*The* KING *has enough for us all.* What Subjects have thrown off is not lost, but lodged in safer hands, the Crown; the old, the natural, the legal Guardian of British Liberty.

But Your Lordship has now a nicer part to manage. The PEOPLE are much more reasonable in their demands on their PATRIOTS than on their MINISTERS. Of their Patriots they readily accept the Will for the Deed; but of their Ministers, they unjustly interpret the Deed for the Will. Our great English Poet, who honoured Your virtues, as much as he loved Your person, was more candid. He understood the delicate situation of a Minister; and in this fine apology, as I have it under his hand, does justice to their good intentions:

Our Ministers like Gladiators live;
'Tis half their business blows to ward or give:
The good their VIRTUE would effect, or SENSE,
Dies between Exigents and Self-defence.

Besides, my Lord, the dead weight of long desuetude upon good intentions seems not to have been enough considered. Of all the strange connexions which the revolutions of Time bring about, the rarest and most accidental is that between MERIT and

* Secretary of State in the year 1748.

REWARD.

REWARD. So that when things have taken their plye, a Minister may be well allowed to answer with him, in the comic Poet, to one who complained he had *been cruelly scratched by Fortune, That it was now too late to think of paring her nails.*

Nor are the mistakes of Expectants far short of the difficulties of *Men in power.*

Scholars (to speak the Court sense of them) who know but little of practicable Life, are apt to fancy that superior distinction in Letters, or superior services in their Profession, may entitle them to the honours of it. But things are not so carried. High Stations, even of the more spiritual kind, require a *knowledge of Affairs.* The pursuit of Letters keeps men from the sight of *Business:* And learned impressions make them unapt and aukward in the discharge of it. The Mind must be unburthened before it will be able to move there, either with ease or grace. Nothing is more unquestioned, nor, consequently, *truer* than these Court-Maxims. And the most that can be said for so helpless a Tribe is, *That Letters never made a Blockhead.* But I go no farther. For indeed it must be owned, That as they find him, so they always leave him.

But perhaps, my Lord, I am all this while giving an example of that very ignorance I would endeavour to excuse. For, if what we daily hear be true, I am pleading for the Decorations of Society, at a time, that the Foundations of it are thought to be insecure. Which certainly would be as bad œconomy as his, who busied himself in white-washing his mansion-

sion-house, when the walls wanted both support and repair.

It is true, I had a view to *Use* as well as Ornament; for I hinted at *Religion* as well as Letters. But it is not of that wood (I mean the wood of the Cross) of which the public supports are now made. So that a great Minister will find many things to do, before he comes to embellish and adorn. And if the temper of the times will but suffer Your Lordship to be instrumental in saving Your Country by a reformation of the general manners, men of sense would be unjust to complain, though they might lament, that the work of polishing our genius was denied to you, and reserved for some happier Successor.

I am, my LORD,
Your LORDSHIP'S
Most obliged and faithful servant,
W. WARBURTON.

# ADVERTISEMENT

## TO THE EDITION OF

## 1766.

A VERY able and judicious *French* Writer* not long since translated the following Treatise (amongst the other Works of this Author) into his native Language. His purpose in it was to open a way for appeasing the commotions of *Jansenism*, at that time in a high ferment. He addressed it, in a private Letter †, to the late Cardinal FLEURY, to whom he was well known. And to give the conclusions, I have deduced, the more credit with his countrymen, he supported them all along with quotations (which are here inserted) from the two famous Works of DE MARCA and BOSSUET; the one the wisest and the other the most sensible Divine that Nation ever produced: And although their Religion kept them strangers to the principles here laid down, as appears from their supposing, all along, that both Church and State continue sovereign and independent, even after *aid* and *protection* have been mutually given and repaid: yet the love of their Country led

* M. *de Silhouette.*

† A copy of which follows this Advertisement.

them

them to the conclusions arising from them; which they readily embraced from observing their use to Mankind, without understanding the grounds on which they stood.

The Translator's success was such as might be expected from every attempt to ease or soften POPERY, though directed to its firmer Establishment. For, the politic directors of that Superstition having long since filled up their measure of unrighteousness, Providence will not suffer them to be *wise even in their own Generation.* The Minister was jealous of principles, and plans of policy, which came from the schools of Liberty and Reason: Neither could he relish or understand them, though dressed up and recommended by some of the ablest Doctors of his own Church. It is a trite observation, that Divines make bad Politicians; I believe it is more generally true, that Politicians are but bad Divines; and especially, secularized Politicians, such as our Cardinal. Yet had this great Man been in the Direction, under a Government like ours, are we to think he would then have slighted a Work which only professes to shew on what solid grounds the fundamental Constitutions of it are erected? By no means. Though his maxims of Policy might not suffer him to countenance Innovations, how just and beneficial soever; yet the dictates of Common sense would have led him to encourage all attempts of supporting the established System of things, on reasonable principles.

## COPIE D'UNE LETTRE

Ecrite à M^gr le Cardinal de FLEURY, en lui envoyant les *Dissertations sur l'Union de la Religion, de la Morale, & de la Politique; tirées d'un Ouvrage de Mr. Warburton.*

PERMETTEZ moi, M^gr. de presenter à votre Eminence des Dissertations sur l'Union de la Religion, de la Morale, & de la Politique, tirées de l'Ouvrage d'un savant Anglois. Je presumerai d'en parler avec d'autant plus de liberté que je n'a gueres fait que traduire & qu'extraire. Ce n'est pas sans de puissans motifs que j'ai entrepris cet ouvrage, & que je prens la liberté de vous le presenter. Frapé des progrès de l'irreligion, & de la decadence des mœurs, qui en est toujours une suite infaillible, instruit par l'histoire de toutes les nations, & EN PARTICULIER PAR MON SEJOUR EN ANGLETERRE, DES MAUX FUNESTES QUE PRODUIT, DANS TOUTES LES BRANCHES DU GOUVERNEMENT, LE RELACHEMENT DES PARTICULIERS DANS LA PRATIQUE DE LA VERTU & DES DEVOIRS RELIGIEUX; trop persuadé que l'*Angleterre* n'est pas le seul pays où l'irreligion ait repandu son poison contagieux, j'ai cru que l'ouvrage le plus utile au quel un bon citoyen put s'appliquer, étoit de tacher d'arrêter le cours d'un libertinage si pernicieux, d'exposer les chimeres ainsi que l'ignorance des esprits forts, & de demontrer alternativement l'utilité de la Religion par sa verité, & sa verité par son utilité. Pour mettre cette grande verité dans

dans tout son jour, j'ai aprofondi autant qu'il m'étoit possible la conduite de tous les Legislateurs & les sentimens de tous les Philosophes; discutions qui ouvrent d'elles-mêmes un beau champ à la literature.

Mais, M^gr. j'ose dire que ce n'est point assez que de s'oposer aux excès de l'irreligion, si l'on ne s'opose en même tems aux abus de la Religion même. L'histoire de presque toutes les nations modernes de l'Europe offre des tableaux bien touchans des maux qu'a produit l'abus de la Religion: Et pour ne se point faire d'illusion, que ne doit-on point craindre du feu que couvrent les dissensions qui divisent encore aujourd'hui les esprits, & dont l'eclat n'est retenu que par la sagesse & la moderation de votre Eminence? J'ai toujours été extrémement frapé d'un passage de St. Chrysostome, je que vous demande la permission de raporter ici. HÆC EST CHRISTIANISMI REGULA, HÆC ILLIUS EXACTA DEFINITIO, HIC VERTEX SUPRA OMNIA EMINENS, PUBLICÆ UTILITATI CONSULERE. C'est le caractere essentiel de la Religion que de s'allier avec l'utilité de l'Etat. Et cependant de combien de calamitez la religion n'a-t-elle pas été la source, elle que n'est destinée qu'à produire des fruits salutaires? On abuse des meilleures choses, & c'est l'abus, que l'on fait de la RELIGION, contre lequel je me suis proposé d'elever une barriere qui marque tout l'usage que l'on en peut, & que l'on en doit faire, & qui fixe le point où l'on doit s'arrêter. Je n'ai travaillé sur les principes d'aucun parti: je n'ai absolument songé qu'à trouver le point critique de reunion où se concentrent LA VERITE & L'UTILITE; Quoique je me suis aidé du secours de quelques uns de nos Theologiens les plus respectables, j'ai moins songé à puiser dans leurs ouvrages, que dans les sources primitives

primitives d'un raisonnement fondé sur la nature & l'essence même des choses. Un long sejour dans des pays où la diversité des religions ne produit aucun desordre a contribué à me mettre sur la voye du vrai, & m'y a ensuite affermi : j'ai marché avec d'autant plus de sureté que je me suis trouvé guidé par l'experience des autres nations: j'ai même trouvé ces matieres savament & profondement discutées par des Theologiens de l'Eglise *Anglicane:* un nombre infini d'ecrits ont paru sur ce sujet : la liberté de tout dire a fait, qu'aucune dificulté n'a été supprimée, & aucune n'a été proposée qu'elle n'ait été clairement & solidement expliquée.

Je laisserois à la lecture de CES DISSERTATIONS à devoiler ce seul remede qu'il convienne, & que l'on puisse appliquer eficacement & salutairement aux desordres de religion, si les ocupations importantes & multipliées de votre Eminence pouvoient lui permettre une lecture aussi longue. Ce remede, c'est l'etablissement d'un Acte par lequel l'Etat s'assure que tous ceux qui remplissent des postes publics, soit civils ou religieux, se conforment à la Religion dominante : c'est, en d'autres mots, la requisition ou d'un Serment, ou de la signature d'un Formulaire. J'espere en avoir demontré la justice & la necessité, sans insister sur d'autres principes que sur ceux de l'Equité naturelle & de la prudence universelle de tous les Etats polices : genre de demonstration que je ne sache pas que personne eut encore entrepris, & qui cependant est essentiel.

Je sais que je dois m'attendre à essuyer un orage violent de la part d'un Parti * qui ne s'est rendu que

* Les Jansenistes.

trop

trop populaire, & dont tout le credit est fondé sur l'illusion & le cagotisme. Mais j'ai tout lieu d'esperer que cet orage se dessipera de lui-même, lorsque l'on verra que la requisition de la signature d'un formulaire, bornée, comme je le propose, aux personnes qui veulent occuper des emplois publics, n'attaque en rien la liberté des consciences, & qu'elle se trouve entierement exemte de tous les reproches de persecution. C'est là je crois le seul moyen de rendre inutiles toutes les ruses d'un parti extrémement habile à s'emprevaloir; car pour peu que l'on examine avec attention, il n'est pas difficile de decouvrir ce qui lui attire un si grand nombre de proselytes. La plupart des particuliers ne sont pas capables de juger des matieres theologiques qui separent les deux partis. Le François a naturellement l'ame noble & genereuse, en sorte que le parti qui peut faire accroire qu'il est persecuté, ce parti, soit bon ou mauvais, ne peut manquer d'avoir un grand nombre de partisans. Rien ne le prouve mieux qu'un trait fort remarquable raporté par Brant, dans son Histoire de la Reformation des Pays Bas, Livre qui fait l'admiration de tous les Hollandois compatriotes de l'Auteur; estimé par tous les Etrangers qui le connoissent, & qui, quoique l'ouvrage d'un Protestant, renferme bien des connoissances utiles & instructives pour un Lecteur Catholique. Cet Historien raporte qu'avant la revocation de l'Edit de Nantes, quelques Religionaires du Poitou passerent en Angleterre, où interrogez sur leur foi, & en particulier sur le nombre des sacramens, ces bonnes gens, souverainement ignorans, repondirent qu'il y en avoit trois, le Pere, le Fils, & le St. Esprit. Comment se peut-il que des gens eussent tant de zele que d'abandonner leur patrie, et tout ce qui leur étoit cher, pour une Religion qu'ils ne connois-

soient certainement pas? Rien de plus naturel: ils croyoient que l'on vouloit contraindre leurs Opinions; & ils ne s'imaginoient pas que la Force & la Verité pussent aller de concert. Avec combien d'art les Jansenistes ne cherchent-ils pas à persuader qu'ils sont persecutez? Ils savent bien que cette opinion, bien loin de decourager leur secte, est tout ce qu'il y a de plus capable de l'augmenter. Je suis persuadé que l'on trouvera que c'est là le cas de la plupart de leurs partisans.

C'est dans cette vue qu'en m'atachant à prouver la justice & la necessité d'un formulaire dont la profession seroit requise de toutes les personnes qui voudroient des emplois publics, je n'ai pas insisté avec moins de force sur la Tolerance des Opinions, à l'egard de ceux qui ne sont dans aucun emploi. C'est même en vain qu'on voudroit les contraindre: les Opinions sont libres, & le pouvoir des hommes n'a aucune prise sur elles. Il n'a d'autre moyen d'introduire l'uniformité que l'expulsion, expedient qu'il faudroit renouveller sans cesse, parce qu'il renait sans cesse des Opinions nouvelles; expedient par consequent trop dangereux; & qui ne s'acorde pas avec la maxime de St. Chrysostome sur l'utilité de la Religion pour l'Etat. J'ose d'autant plus volontiers avancer, que la Violence & la Religion sont incompatibles; que rien n'est plus opposé que la violence au caractere & aux sentimens que toute l'Europe reconnoit dans votre Eminence.

Toute secte privée des dignitez de l'Etat fut-elle appuyée sur la verité, ne peut faire de grands progrès dans ce siècle corrompu. On en a un exemple sensible dans les Catholiques de Hollande & d'Angleterre,

terre, & surtout dans ceux de cet dernier pays, où leur nombre diminue tous les jours, uniquement parce qu'il y a un plus grand nombre de dignités à distribuer, & qu'elles y sont plus faciles à obtenir, qu'en Hollande, où elles sont presque entierement confinées aux familles des Magistrats des Villes. Les progrès seroient encore bien moindres à l'egard des sectes qui auroient le malheur d'être dans l'erreur. Les Catholiques de Hollande n'y causent aucun trouble, non plus que les Presbyteriens en Angleterre. Exclus de tous les emplois, ils n'ont point assez de pouvoir pour introduire aucune division dans le Gouvernement; & jouissant en même tems de la liberté de professer tranquilement leur religion, rien ne les excite à se soulever contre un Gouvernement juste & équitable. Les Catholiques d'Angleterre sont, à la verité, moins bons sujets; mais d'où provient cette difference d'avec ceux de Hollande, si non que les Loix penales, qui en Angleterre ont lieux contre eux, leur donnent toujours lieu d'apprehender la violence, & les reduisent, en quelque maniere, dans un état de persecution.

Me permettrez-vous, M^gr., de dire avec ingenuité, que je fus convaincu tant par l'étude que je puis avoir faite de la nature humaine, que par le témoignage unanime qu'en rend l'Histoire de toutes les nations florissantes, que l'Union de la PROFESSION D'UN FORMULAIRE d'une part, avec la TOLERANCE de l'autre, est le seul moyen de prevenir les maux que l'on a lieu d'apprehender d'une SECTE qui s'accroit plus qu'elle ne diminue; & qui jette de jour en jour des racines plus profondes; qui ne peut être detruite par tout autre moyen, qu'en même tems l'on n'affoiblisse infiniment l'Etat, & qui, en

ce cas même, seroit surement succedée par quelque secte nouvelle. Une rigidité exacte à exiger la profession d'un Formulaire commun, de tous ceux qui entrent dans quelque poste ou dans quelque societé publique que ce puisse être, & une indulgence entiere à l'égard des opinions des simples particuliers, assureroient la tranquillité de l'Etat contre les efforts non seulement des sectes actuelles, mais encore de toutes celles qui pourroient se former par la suite.

Je soumets toutes ces reflexions, M^gr., aux lumieres de votre Eminence, & j'ai l'honneur d'être, &c.

# THE ALLIANCE BETWEEN CHURCH AND STATE.

## BOOK I.

### OF THE NATURE AND END OF CIVIL AND OF RELIGIOUS SOCIETY.

### CHAP. I.

#### THE OCCASION AND NATURE OF THIS DISCOURSE.

AN ESTABLISHED RELIGION, and a TEST LAW, the two great solecisms, as we are told, in modern politics, are the subject of the following Discourse. A subject that hath not only, in common with most others of importance, been much perplexed by the bringing in, on both sides, men's civil and religious prejudices into the question; but likewise, which is almost peculiar to this controversy, by their concurring in one and the same erroneous principle: for where the two parties go on different grounds, they naturally begin with examining one another's principles, which leads to the discovery of the true; and consequently to the timely determination of the controversy. But where a *false* principle has the luck to be unquestioned, the disputants

may wrangle for ever, and be, after all, no nearer to the truth. This hath been the fate of the subject in question; while both parties placed their arguments on the same mistaken foundation, the one defended a Test on such reasonings as destroyed a *Toleration*; and the other opposed it on such as conclude equally against the very essence and being of a *National Religion*.

Inveterate mistakes, therefore, upon a subject of such importance, would be a sufficient apology for the Expediency of this Discourse at any time, although some late occurrences had not made it particularly seasonable at the present. Our unhappy divisions in the state have, it seems, amongst the various intrigues of parties, afforded opportunity and encouragement to the Protestant Dissenters to enter upon measures for the Repeal of the *Test Law*; that is, as we shall prove, for throwing the state into convulsions, by a dissolution of the original union between the two Societies. In the mean time it hath unhappily befallen, that some, to whom this kingdom is greatly indebted for their reasonings in defence of public liberty, have thought hardly of a *Test-Law* and of an *Established Religion* so secured. From what their mistake hath arisen will be shewn in its place. However, the authority of these great names hath induced many unprejudiced persons to shew too much countenance to this destructive project; and hath emboldened the promoters of it to appeal to the abstract principle of Right. I shall therefore attempt to shew THE NECESSITY AND EQUITY OF AN ESTABLISHED RELIGION AND A TEST-LAW FROM THE ESSENCE AND END OF CIVIL SOCIETY, UPON THE FUNDAMENTAL PRINCIPLES OF THE LAW OF NATURE AND NATIONS.

This

This being our subject, I do not propose to defend an *Established Religion* and a *Test*, by the laws of this or that state, or on the principles of this or that scheme of religion, but on the great and unerring maxims of the law of nature and nations: and when, on occasion, I may happen to apply the reasoning here enforced, to this or that church or state, it will be only so far forth as they are conformable to that law.

And this is all now wanting to determine this long controversy. For the adversaries of establishments having been beaten off from their attacks of the *Test-Law*, on the frame and principles of our own constitution, by many excellent vindications *of the Corporation and Test-Acts*, have left this partial question, and appealed to the law of nature and nations. To that tribunal we now propose to follow them.

The *Principles* of Society, Civil and Religious, here delivered, will serve to lay open the absurd reasonings of those, who, thinking an *Establishment* of divine right, defend it on the doctrine of intolerance, which makes a church an inquisition; and the necessary *consequences* deduced from those principles will as plainly expose the mischievous reasonings of those, who, holding a *Test* to be against all human rights, oppose it on a doctrine of licentiousness, which makes the church a rope of sand. Having done this, from those clear principles, and these necessary consequences, we shall demonstrate the perfect concord and agreement between *Religious Liberty* and a *Test-Law*; and, in the last place, detect the delusive Principle, above mentioned, upon which both parties have gone, and shew how it hath led both, as extraordinary as it may seem, to quite contrary conclusions. From all this it will appear, which is one of

the principal purposes of this Discourse, that our present happy Constitution, both of Church and State, is erected on solid and lasting Foundations.

## CHAP. II.

### OF THE STATE OF NATURE; AND THE ESTABLISHMENT OF SOCIETY.

TO lay my foundation therefore with sufficient strength, it will be necessary, though in as few words as may be, to consider the nature of man in general, and of that civil community which he invented with so much benefit to himself and fellows: that, seeing his wants, and the remedies he applied to them, we may better judge of their fitness to, and operations on, each other.

The appetite of self-preservation being indispensably necessary to every animal, nature has made it the strongest of all. And though, in rational animals, reason alone might be supposed sufficient to answer the end for which this appetite is bestowed on others, yet, the better to secure that end, nature has given man likewise a very considerable share of the same instinct with which she has endowed brutes so admirably to provide for their preservation. Now, whether it were some *plastic nature* that was here in fault, which, Lord Verulam says, *knows not how to keep a mean* *, or that it was all owing to the perverse use of human liberty, certain it is, that, borne away with the lust of gratifying this appetite, man, in a state of nature, soon ran into very violent excesses; and never thought he had sufficiently provided for his own being, till he had deprived his fellows of the

* Modum tenere nescia est.

free

free enjoyment of theirs. Hence all those evils of mutual violence, rapine, and slaughter, that, in a state of nature, must needs abound amongst equals. Because, though man, in this state, was not without a law which exacted punishment on evil doers, yet the administration of that law, not being in common hands, but either in the person offended, who being a party would be apt to enforce the punishment to excess; or else in the hands of every one, as the offence was against mankind in general and affected the good of particulars not immediately or directly, would be executed remissly. And very often, where both these executors of the law of nature were disposed to be impartial and exact in the administration of justice, they would yet want power to enforce it. Which, altogether, would so much inflame the evils above mentioned, that they would soon become as general and as intolerable as the *Hobbeists* represent them in that state to be, was it not for the restraining principle of RELIGION that kept men from running into the confusion which the appetite of inordinate self-love necessarily produces. But yet religion could not operate with sufficient efficacy for want, as we observed before, of a common arbiter, who had impartiality enough fairly to apply the rule of right; and power to enforce its operations: So that these two PRINCIPLES were in endless jar; in which justice generally came by the worst. It was therefore found necessary to call in the CIVIL MAGISTRATE, as the ally of Religion, to turn the balance.

*Jura inventa metu injusti fateare necesse est,*
*Tempora si fastos velis evolvere mundi.*

Thus was *Society* invented for a Remedy against Injustice: and a *Magistrate* by mutual consent appointed,

pointed, to give a sanction to "that common measure "to which, reason teaches us that, creatures of the "same rank and species, promiscuously born to the "same advantages of nature, and to the use of the "same faculties, have all an equal right*." Where it is to be observed, that though society provides for all those conveniences and accommodations of more elegant life, which man must have been content to have done without, in a state of nature, yet it is more than probable that these were never thought of when society was first established†: but that they were the mutual violences and injustices, at length become intolerable, which set men upon contriving this generous remedy. Because evil felt has a much stronger influence on the mind than good imagined: and the means of removing the one is much easier discovered than the way to procure the other: and this by the wise disposition of nature; the avoiding evil being necessary to our existence; not so, the procuring pleasure. Besides, the idea of those unexperienced conveniences would be, at best, very obscure: And how unable men would be, before trial, to judge that society could bestow them, we may guess by observing how little, even now, the generality of men, who enjoy those blessings, know or reflect that they are owing to society, or how it procures them; because it doth it neither immediately nor

* Locke.

† Though the judicious Hooker thinks those advantages were principally intended when man first entered into society: *This was the cause* (says he) *of men's uniting themselves at first into politique societies.* Eccl. Pol. L. i. § 10. His master Aristotle, though extremely concise, seems to hint, that this was but the *secondary* end of civil society; and that *that*, which we here make to be so, was the first. His words are: γινομένη μὲν οὖν τοῦ ζῆν ἕνεκεν, οὖσα δὲ τοῦ εὖ ζῆν. Pol. L. i. c. 2.

directly.

directly. But they would have a lively sense of evils felt; and would know that society was the remedy, because the very definition of the word would teach them how it becomes so. Yet because *civil society* so greatly improves human life, this *improvement* may be called, and not unaptly, the *secondary end* of that convention. Thus, as *Aristotle* accurately observes in the words quoted below, that which was at first constituted for the *sake of living*, is carried on for the *sake of happy living*.

This is further supported by fact. For we see that those savage nations which happen to live in peace out of civil society, never think of entering into it, though they feel all the advantages of that improved condition in the neighbouring colonies round about them.

## CHAP. III.

### OF THE NATURAL DEFECTS OF CIVIL SOCIETY; AND THE NECESSITY OF APPLYING RELIGION TO REMEDY THOSE DEFECTS.

CIVIL Society thus established; from this time, as the Poet sings,

- - - - - - *absistere bello,*
*Oppida cæperunt munire, et ponere leges,*
*Ne quis Fur esset, neu Latro, neu quis Adulter.*

But as before, bare RELIGION was no preservative against civil disorders; so now SOCIETY alone would be equally insufficient.

I. 1. For, first, its laws can have no further efficacy than to restrain men from open transgression; while what

what is done amiss in private, though equally tending to the public prejudice, escapes their censure. And man, since his entering into society, would greatly have improved his practice in this secret way of malice. For now an effectual security being provided against *open violence*, and the inordinate principle of self-love being still the same, *secret craft* was the art to be improved; and the guards of society inviting private men to a careless security, what advantages it would afford to those hidden mischiefs, which civil laws could not take notice of, is easy to conceive.

2. But, secondly, the influence of civil laws cannot, in all cases, be extended even thus far, namely, to the restraining of open transgression. It cannot *then*, when the severe prohibition of one irregularity threatens the bringing on a greater: and this will always be the case, when the irregularity is owing to the violence of the sensual passions. Hence it hath come to pass, that no great and flourishing community could ever punish *fornication*, or vague lust, in such a sort as its ill influence on society was confessed to deserve: Because it was always found that a severe restraint of this, forced open the way to more flagitious lusts.

3. Thirdly, The very attention of civil laws to their principal object, occasions a further inefficacy in their operations. To understand this, we must consider, that the care of the state is for the WHOLE, under which *individuals* are considered but in the second place, as accessaries only to that whole; the consequence of which is, that, for the sake of the body's welfare, some individuals are often left neglected. Now the care of *Religion* is for PARTICULARS, and a *Whole* has but the second place in its

its concern *. This is only touched upon to shew, in passing, the natural remedy for the defects, I am here endeavouring to account for.

4. But this was not all: There was a further inefficacy in human laws. The Legislator, in enquiring into the mutual duties of citizens arising from their equality of condition, found those duties to be of two kinds. The first, he intitled the duties of PERFECT OBLIGATION, because civil laws could readily and commodiously, and were of necessity required, to enforce their observance. The other he called the duties of IMPERFECT OBLIGATION; not that morality doth not as strongly exact them, but because civil laws could not conveniently provide for the observance of them; and because they were supposed not so immediately and essentially to affect the welfare of society. Of this latter kind are *gratitude, hospitality, charity, &c.* Concerning such, civil laws, for these reasons, are generally silent. And yet, though it may be true, that these duties, which human laws thus overlook, may not so directly affect society, it is very certain, that their violation brings as sure,

* Regium Imperium a Sacerdotali in eo maxime distat, quod illi non solæ singulorum civium rationes commissæ sint, sed totius reipublicæ salus; unde fit ut in cives etiam invitos ad fovendum totius reipublicæ corpus, jus illi competat—Quod aliter se habet in episcopali ministerio, cui ecclesiæ sollicitudo ita est commissa, ut singulorum saluti præcipue invigilare debeat, nec curare possit universum corpus aliquorum membrorum pernicie. PETRUS DE MARCA, *De concordia sacerdotii et imperii. Epistola ad Cardinalem de Richelieu:* Nous aurons occasion de citer souvent ce fameux ouvrage, écrit à la requisition du Cardinal de Richelieu. Nous l'indiquerons par le nom de l'Auteur, prelat aussi zélé pour sa religion que pour son prince. Il mourut peu de tems après sa nomination à l'Archevêché de Paris, où il étoit parvenu par son mérite et par le discernement de son Roi. *French translator.*

though

though not so swift destruction upon it, as that of the duties of *perfect obligation*. A very competent judge, and who, too, speaks the sentiments of antiquity, in this matter, hath not scrupled to say—"Ut scias "per se expetendam esse GRATI ANIMI ADFEC- "TIONEM, per se fugienda res est INGRATUM esse: "quoniam nihil æque concordiam humani generis "dissociat ac distrahit quam hoc vitium*."

5. Still further, besides these duties both of *perfect* and *imperfect* obligation, for the encouraging and enforcing of which, civil regimen was invented; SOCIETY itself begot and produced a *new set of duties*; which are, to speak in the mode of the legislature, of *imperfect obligation:* the first and principal of which is, that antiquated forgotten virtue called the LOVE OF OUR COUNTRY.

6. But, lastly, SOCIETY not only introduced a new set of duties, but likewise increased and inflamed, to an infinite degree, those inordinate appetites for whose correction it was invented and introduced; like some kinds of powerful medicines, which, at the very time they are working a cure, heighten, for a time, the malignity of the disease. For the appetites take their birth from our real or imaginary wants. Our *real* wants are unalterably the same; and, arising only from the imbecility of our nature and situation, are exceeding few, and are easily relieved. Our *fantastic* wants are infinitely numerous, to be brought under no certain measure nor standard; and are always increasing in exact proportion to our improvements in the arts of life. But the arts of life owe their original to society: and the more perfect the policy is, the higher do those improvements rise;

* Seneca de Benef. Lib. iv. c. 18.

and,

and, with them, are our wants, as we say, proportionably increased; and our appetites inflamed: for those appetites which seek the gratification of our imaginary wants are much more violent than what are raised by our real wants: not only because the imaginary are more numerous; which gives constant exercise to the appetites: and more unreasonable; which makes the gratification proportionably difficult; and altogether unnatural; to which there is no measure: but principally because vicious custom hath affixed a *kind of reputation* to the gratification of the fantastic wants, which it hath not done to the relief of the real ones. So that, on the whole, our wants increase in proportion as the arts of life advance and perfect.—In proportion to our wants, is our uneasiness—to our uneasiness, our endeavours to remove it—to our endeavours, the weakness of *human restraint*. Hence it appears, that, in a state of nature, where little is consulted but the support of our existence, our wants must be few, and our appetites in proportion weak; and that, in civil society, where the arts of life are cultivated, our wants must be many, and our appetites in proportion strong.

II. Thus far concerning the imperfection of civ society, with regard to the administration of tha power which it hath, namely, of *punishing* the refractory. We are next to consider its much greater imperfection with regard to that power which it wanteth; namely, of *rewarding* the obedient.

The two great sanctions of law and civil regimen are REWARD and PUNISHMENT. These are generally called the two hinges, on which government turns. And so far is certain, and apparent to the common sense of mankind, that whatever laws are not

enforced

enforced by both these sanctions, will never be observed in any degree sufficient to carry on the ends of society.

Yet, I shall now shew, from the original constitution and nature of civil society, that it neither had, nor could enforce, the SANCTION OF REWARD.

But, to avoid mistakes, I desire it may be observed, that, by *Reward*, must needs here be meant, *such as is conferred on every one for observing the laws of his country*; not such as is bestowed on particulars, for any eminent service: as by *Punishment* we understand *that which is inflicted on every one for transgressing the Laws*; not *that* which is imposed on particulars, for neglecting to do all the service in their power.

I make no doubt but this will be put into the Number of my paradoxes; nothing being more common in the mouths of politicians*, than *that the sanctions of reward and punishment are the two pillars of civil government*; all the modern *Utopias*, and ancient systems of speculative politics, deriving the vigour of their laws from these two sources. Let the proof therefore of the two following propositions be considered.

I. That, by the *original constitution* of civil government, the sanction of rewards *was not* enforced.

II. That, from the *nature* of civil government, they *could not* be enforced.

I. In entering into society, it was stipulated, between the magistrate and people, that *protection* and

* Neque solùm ut SOLONIS dictum usurpem, qui & sapientissimus fuit ex septem, & legum scriptor solus ex septem. Is *rempublicam duabus rebus contineri* dixit, PRÆMIO ET POENA. Cic. ad Brutum, Ep. 15.

*obedience*

*obedience* should be reciprocal conditions. When, therefore, a citizen obeys the laws, that debt on society is discharged by the protection it affordeth him. But, in respect to disobedience, the proceeding is not analogous (though protection, as the condition of obedience, implies the withdrawing it on disobedience) and for these Reasons: The effect of withdrawing protection must be either expulsion from the society, or exposing the offender to all kinds of insult from others, in it. Society could not practise the first, without bringing the body politic into a consumption; nor the latter, without throwing it into convulsions. Besides, the first is no punishment at all, except by accident; it being only leaving one Society to go into another: And the second is an inadequate punishment; for though all obedience be the same; and so, *uniform protection* a proper return for it; yet disobedience being various both in kind and degree, the withdrawing protection would be too great a punishment for some crimes, and too small for others.

This being the case, it was stipulated that the transgressor should be subject to pecuniary mulcts, corporal castigations, mutilation of members, and capital inflictions. These were the sanction, and *only* sanction of civil laws. For, that protection is no reward in the sense that these are punishments, is plain from hence, that protection is of the essence of society itself; penal inflictions an occasional adjunct. But this will farther appear by considering the opposite to protection, which is *expulsion*, or banishment; for this is the *natural* consequence of withdrawing protection. Now this, as we said, is no punishment but by accident: and so the State understood it; as we may collect, even from their man-

ner of employing it *as a punishment* on offenders: for banishment is of universal practice, with other punishments, in all societies. Now, where withdrawing protection is inflicted as a punishment, the practice of all states hath been, to retain their right to obedience from the banished member; though, according to the nature of the thing, considered alone, that right be really discharged; obedience and protection, as we observed, being reciprocal. But it was necessary all States should act in this manner when they inflicted exile as a punishment; it being no punishment but by accident, when the claim to subjection was remitted with it. They had a *Right* to act thus; because it was inflicted on an *Offender*; who had wilfully forfeited all claim of advantage from that *reciprocal condition* *.

II. But secondly, from the nature of civil government, *the sanction of rewards could not be enforced by it:* because society could neither distinguish the objects of its favour; nor reward them, though they were distinguished.

1. First, *Society could not distinguish the objects of its Favours.* To inflict punishment, there is no need of knowing the Motives of the offender; but judicially to confer reward, on the obedient, there is.

All that civil judicatures do in punishing is to find whether the act was *wilfully* committed. They enquire not into the intention or motives, any further, or otherwise, than as they are the marks of a voluntary act; and having found it so, they concern themselves no further with the motives or principles of acting, but punish, without scruple, in con-

* See Note [A] at the end of this Book.

fidence

fidence of the offender's demerit. And this with very good reason; because no one of a sound mind can be supposed ignorant of the principal offences against right, or of the malignity of those offences, but by some sottish negligence that hath hindered his information; or some brutal passion that hath prejudiced his judgment; both which are highly faulty, and deserve civil punishment.

It is otherwise in rewarding the abstaining from transgression. Here the *motive* must be considered: because as *merely doing ill*, i.e. without any *particular* wrong motive, deserves punishment, a crime in the case of wrong judgment being ever necessarily inferred; so *merely abstaining from ill* cannot, for that very reason, have any merit.

In *judicially rewarding*, therefore, the *Motives* must be known: but human Judicatures can know them but by accident: It is only that tribunal, which searches the heart, that penetrates thus far. We conclude, therefore, *that reward cannot, properly, be the sanction of human Laws.*

If it should be said, that though rewards cannot be equitably administered like punishments; yet nothing hinders but that, for the good of society, all who observe the laws may be rewarded, as all who transgress the laws may be punished: the answer will lead us to the proof of the second part of this proposition.

2. That *society could not* reward, *though it should* discover *the objects of its favour*; the reason is, because no society can ever find a fund sufficient for that purpose, without raising it on the people as a tax, to pay it back to them as a reward.

But the universal practice of society confirms

this reasoning, and is explained by it; the sanction of *punishments* only, having, in all ages and places, been employed to secure the observance of civil laws. This was so remarkable a *fact*, that it could not escape the notice of a certain excellent wit, and studious observer of men and manners; who speaks of it as an universal defect: *although we usually*, says he, *call reward and punishment the two hinges, upon which all government turns, yet I could never observe this mavim to be put in practice by any nation except that of* Lilliput*. Thus he introduceth an account of the laws and customs of an *Utopian* constitution of his own framing; and, for that matter, as good, perhaps, as any of the rest: And, had he intended it as a satire against such chimerical commonwealths, nothing could have been more just: for all these political romancers, from *Plato* to this author, make civil rewards and punishments *the two hinges of government.*

I have often wondered what it was, that could lead the reformers of laws from fact, and universal practice, in so fundamental a point: But, without doubt, it was this: the design of such sort of writings is to give a perfect pattern of civil government; and to supply the fancied defects in real societies. The end of government coming first under consideration; and the general practice of society seeming to declare this end to be only, what, in truth, it is, *security to our temporal liberty and property;* the simplicity of the plan displeased, and appeared defective. They imagined, that, by enlarging the bottom, they should ennoble the structure: and, therefore, formed a romantic project of making civil society serve for all the good purposes it was even accidentally ca-

* Gulliver's Travels, vol. I. p. 97.

pable

pable of producing. And thus, instead of giving us a true picture of government, they jumbled together all sorts of societies into one; and confounded the *religious*, the *literary*, the *mercantile*, the *convivial*, with the CIVIL. Whoever reads them carefully, if indeed they be worth reading carefully, will find that the errors, in which they abound, are all of this nature, and arise from this source, from the losing, or never having had, a true idea of the simple plan of civil government: a circumstance, which, as we shall shew occasionally, in the course of this work, hath been productive of many wrong judgments concerning it. No wonder then, that this mistake, concerning the *end* of civil society, drew after it others, concerning the *means*; and this, amongst the rest, that *reward was one of the sanctions of human laws.*

On the whole, then, it appears, that civil society hath not, in itself, the *sanction of rewards*, to secure the observance of its own laws. So true, in *this* sense, is the observation of St. *Paul*, that THE LAW WAS NOT MADE FOR THE RIGHTEOUS, BUT FOR THE UNRULY AND DISOBEDIENT.

But it being evident, that the joint sanctions of rewards and punishments are but just sufficient to secure the tolerable observance of right (the common false opinion that these are the two hinges of government arising from that evidence), it follows, that, as RELIGION, ONLY, CAN SUPPLY THE SANCTION OF REWARDS, WHICH SOCIETY WANTS, AND HATH NOT, RELIGION IS ABSOLUTELY NECESSARY TO CIVIL GOVERNMENT.

Thus, on the whole, we see,

I. That society, by its own proper force, cannot provide for the observance of above one third part of

moral duties; and of that third, but imperfectly. We see likewise, how, by the peculiar influence of its nature, it enlargeth the duty of the citizen, at the same time that it lessens his natural ability to perform it.

II. We see further, which is a thing of far greater consequence, that society totally wants one of those two powers which are owned by all to be the necessary hinges on which government turns, and without which it cannot be supported:

To supply these wants and imperfections, some other coactive power must be added, that hath its influence on the mind of man, to keep society from running back into confusion. But there is no other than the power of RELIGION; which teaching a governing Providence, who hath given laws for the perfecting of Man's nature, and so becomes the rewarder of good men, and the punisher of ill, this religion can oblige to the Duties of *imperfect obligation*, which human laws overlook: and teaching, also, that this Providence is omniscient, that it sees the most secret actions and intentions of men, will oblige to those duties of *perfect obligation*, which human laws cannot reach, or sufficiently enforce.

Thus we have explained, in general, the mutual aid which *religion* and *civil policy* lend to one another: not unlike what two parties in the same cause, and engaged in the same encounter, may reciprocally receive and give against a common enemy: While one party is closely pressed, the other comes up to its relief; disengages the first; gives it time to rally, and repair its force: By this time the assisting party is pushed in its turn, and needs the aid of that which is relieved; which is now at hand to repay the obli-

gation. From henceforward, the two parties ever act in ALLIANCE; and, by that means, keep the common enemy at a stand.

THIS USE OF RELIGION TO THE STATE was seen by the learned, and felt by all men of every age and nation. The ancient world particularly was so firmly convinced of this truth, that their greatest secret of the sublime art of legislation consisted in this, how religion might be best applied to the service of society. The particular methods they employed, and the several artful detours they contrived to arrive at this end, are in the second book of *The Divine Legation of* MOSES explained at large.

Religion being thus proved necessary to society, that it should be so used and applied, in the best way, and to most advantage, needs no proof. For it is as instinctive in our nature to improve a good, as to discover or investigate it. And with regard to the improvement of this particular good, there is a special reason why it should be studied. For the experience of every place and age informs us, that the coactivity of *civil laws* and *religion* is but just enough to keep men from running into disorder and mutual violence. But this improvement is the effect of art and contrivance. For all natural good, every thing constitutionally beneficial to man, needs man's industry to enable him to reap that benefit. We receive it all at the provident hand of heaven, rather with a capacity of being applied to our use, than immediately fit for our service. We receive it, indeed, in full measure, but rude and unprepared. The efficient cause of this, in natural goods, is the intractability and innate stubbornness of matter; and in moral goods, the malice and perversity of man. The final cause seems to be, that man, of all God's creatures

the most incapable of a state of inactivity and idleness, may be set to work; and by this means made to cultivate, what would else lye fallow, the faculties both of his mind and body.

Now concerning this technical improvement of moral good, it is, in artificial bodies, as in natural: *Two* may be so essentially constituted as to be greatly able to adorn and strengthen each other. But then, as in the one case a mere juxta-position of the parts is not sufficient, so neither is it in the other; some union, some coalition, some artful insertion into each other will be necessary. But now again, as in natural bodies, the artist is unable to set about the proper operation, till he hath acquired a reasonable knowledge of the nature of those bodies which are the subject of his skill; so neither can we know in what manner religion may be best applied to the service of the state, till we have learned the real and essential natures both of a *state* and a *religion*. The *obvious* qualities of both sufficiently shew that they must needs have a good effect on each other, when properly applied*; as our artist, by his knowledge of the obvious qualities of two natural bodies, we suppose discerns as much; though he hath not yet gotten sufficient acquaintance with their nature, to make a proper application.

* Non natura, sed hominum vitio factum, ut ambæ illæ potestates, quæ amico fœdere conjungi debuerant, in dedecus Christiani nominis aliquando divellantur ab invicem. *Marca, Epistola ad Cardinalem de Richelicu.* F. T.

## CHAP. IV.

### OF THE NATURE AND END OF CIVIL SOCIETY: AND THE CAUSES OF THE COMMON MISTAKES CONCERNING IT, DISCOVERED AND EXPLAINED.

IT behoves us, therefore, in the next place, to examine the nature of CIVIL SOCIETY and RELIGION more at large. Of whose *natures* to be truly informed, the way is to find out their *ends*. And this will be the more necessary on account of the wonderful extravagances that the several sects amongst us have run into, concerning one and the other society; while some strike at the *administration*, some at the *nature*, and some at the very *being* of both. The PAPIST makes the state a creature of the church; the ERASTIAN makes the church a creature of the state: the PRESBYTERIAN would regulate the state on church ideas; the HOBBEIST, the church, on reasons of state: And, to compleat the farce, the QUAKER abolishes the very being of a church; and the MENNONITE suppresses the office of the civil magistrate.

But to begin with *Civil Society*. It was instituted either with the purpose of attaining all the good of every kind, it was even accidentally capable of producing; or only of some certain good, which the institutors, unconcerned with, and unattentive to, any other, had in view. To suppose its end the vague purpose of acquiring all possible accidental good, is, in politics, a mere solecism; as hath been sufficiently shewn by the writers* on this question. And how untrue

* See Locke's Defence of his Letters of Toleration. This appears to have been Aristotle's opinion from these words—φύσει μὲν

untrue it is in fact, may be gathered from what we have said above, of the Origin of Society. Civil Government then, I suppose, will be allowed to have been invented for the attainment of some certain end or ends, exclusive of others: and this implies the necessity of distinguishing this end from others. Which distinction arises from the different properties of the things pretending. But, again, amongst all those things which are apt to obtrude, or have in fact obtruded, upon men, as the ends of civil government, there is but one difference in their properties, as ends; which is this, *That one of these is attainable by civil society only; and all the rest are easily attained without it.* The thing then, with that singular property, must needs be the genuine end of civil society. And that is no other than SECURITY TO THE TEMPORAL LIBERTY AND PROPERTY OF MAN. For this end, as we have shewn, civil society was invented; and *this*, civil society alone is able to procure. The great, but spurious rival of this end, THE SALVATION OF SOULS, or the *security* of man's future happiness, belongs, therefore, to the other division. For *this*, not depending on outward accidents, or on the will or power of another, as the body and goods do, may be as well attained in a state of nature, as in civil society; and therefore, on the principles here delivered, cannot be one of the causes of the institution of civil government; nor consequently one of the ends thereof*.

But if so, the promotion of it comes not within the

μὲν οὖν διώρισται τὸ θῆλυ, καὶ τὸ δοῦλον· οὐδὲν γὰρ ἡ φύσις ποιεῖ τοιοῦτον, οἷον χαλκοτύποι τὴν [Δελφικὴν] μάχαιραν, πενιχρῶς, ἀλλ' ἓν πρὸς ἕν· &c. Polit. l. i. c. 1.

* See note [B] at the end of this Book.

the peculiar province of the magistrate *. For he who has nothing to do with the *end*, can have no concern with the *means*. These means are DOCTRINE AND MORALS, which compose what is called RELIGION, in the largest sense of the word—That *opinions* are not in his ressort, I again refer the reader to Mr. *Locke*'s discourses on *Toleration*; where it may be seen, how, from the principles here laid down, the whole doctrine of religious liberty is demonstrated: and that even *morals* are not, when considered only in a religious sense, how strange soever this assertion may appear, is evident both from the reason of things, and from the fundamental practice of all governments.

We have shewn they were the *bodies*, not the *souls* of men, of which the magistrate undertook the care. Whatever therefore refers to the *body*, is in his jurisdiction; whatever to the *soul*, is not. But, and if there be *that* which refers equally to both (as *morals* plainly do) such thing must needs be partly within and partly without his province; that is, it is to be *partially* considered by him; his care thereto extending so far only as it affects society. The other considera-

* Summa divini numinis benignitate duobus maximis præsidiis instructa est humani generis societas ad felicitatem consequendam, Sacerdotio et Imperio; quorum alterum divinis mysteriis se impendit, alterum componit reipublicæ statum, et humanæ vitæ tranquillitatem procurat; ita ut ex utriusque concordia Christiana respublica cumulatissimis incrementis augeatur. Utraque potestatum suis limitibus est circumscripta, et in dissitis omnino negotiis exercetur; cum illa spiritualibus addicatur, hæc publicis occupata sit—certæ quidem regulæ in genere assignari possunt, quibus invicem disterminentur.—Et en parlant des difficultez qui peuvent survenir entre ces deux puissances, l'Auteur ajoûte—Quæ locum habent non in controversiis fidei, quæ longo intervallo remotæ sunt e cognitione principum, nec in rerumpublicarum administrationibus, quæ alienæ sunt a cura pascendi gregis. Marca in præfatione prima. F. T.

tion

tion of it, namely as it makes part of religion, being in the hands of those who preside in another kind of society; of which more hereafter.

Again, with regard to civil practice; if we cast our eye on any *digest* of laws, we shall find that evil actions have their annexed punishment denounced, not as they are VICES, *i. e.* not in proportion to their deviation from the eternal rule of right: nor as they are SINS, *i. e.* not in proportion to their deviation from the revealed will of God; which two things indeed coincide: But as they are CRIMES, *i. e* in proportion to their malignant influence on civil society.

But the view in which the *state* regards the practice of morality is evidently seen in its recognition of that famous maxim by which, in all communities, penal laws are fashioned and directed, THAT THE SEVERITY OF THE PUNISHMENT MUST ALWAYS RISE IN PROPORTION TO THE PROPENSITY TO THE CRIME. A maxim evidently *unjust*, were actions regarded by the state as they are in themselves; because the *law of nature* enjoins only in proportion to the ability of the subject; and human abilities abate in proportion to the contrary propensities:—evidently *impious*, were actions regarded by the state as they refer to the *will of God*, because this state-measure directly contradicts his method and rule of punishing. But suppose the magistrate's office to be what is here assigned; his aim must be the SUPPRESSION of *crimes*, or of those actions which malignantly affect society; and then nothing can be more reasonable than this proceeding. For then, his end must be the good of the *whole*, not of *particulars*; but as they come within that view. But the good of the whole being to be procured only by the *prevention of crimes*; and those, to which there is the greatest propensity, being

being of the most difficult prevention, the full severity of his law must, of necessity, be armed against these *.

But now it is to be observed, in order to clear this question from the confusion to which the want of these considerations has subjected it, that though *Religion*, or the *Care of the Soul*, be not within the province of the magistrate, and consequently matters of *doctrine* and *opinion* are without his jurisdiction; yet this must always be understood with an exception to the three fundamental principles of Natural Religion; namely—THE BEING OF A GOD—HIS PROVIDENCE OVER HUMAN AFFAIRS—and THE NATURAL ESSENTIAL DIFFERENCE OF MORAL GOOD and EVIL. These doctrines it is directly of his office to cherish, protect, and propagate; and all oppugners of them it is as much his right and duty to restrain as any the most flagrant offender against civil peace. Nor doth this at all contradict our general position, that the sole end of civil society is the conservation of body and goods. For the magistrate concerns himself with the maintenance of these THREE FUNDAMENTAL ARTICLES, not as they promote our *future* happiness, but our present: as they are the very foundation and bond of civil policy. To understand this,

* "A law there is mentioned amongst the Grecians whereof "*Pittacus* is reported to have been author: and by that law it "was agreed, that he, which being overcome with drink did then "strike any man, should suffer punishment double as much as "if he had done the same being sober. No man could ever "have thought this reasonable that had intended thereby only "to punish the injury committed according to the gravity of "the fact. For who knoweth not that harm advisedly done is "naturally less pardonable, and therefore worthy of the sharper "punishment. But forasmuch as none did so usually this way "offend as men in that case, it was for the public good to frame "a positive law for remedy thereof accordingly." *Hooker*, Eccl. Pol. L. i. § 10.

we must remember what hath been said above of its original.

The progress and increase of mutual violence in the state of nature, till it became general and intolerable, was owing to the *natural equality* of power amongst men. The remedy of which was seen to be civil society. But that equality of power, which occasioned the evil, prevented the remedy, any otherwise than by the will and free consent of every one. The entrance therefore into society was by free convention and stipulation. But then again, that same equality which made every man's consent necessary, prevented his giving any other security for the performance of his compact than his mere word: and how feeble a security that is, all men know. Some means therefore were to be contrived to strengthen the obligation of his word. Now nothing, in the case here imagined of perfect equality (and such was the real case on men's entering into society) could give this strength, but RELIGION. An OATH then, rising on the *three great principles* above mentioned, was that sanction to his word which was universally employed in all conventions. For an oath is an invocation to heaven, whose providence is believed to regard men's actions; justice being the object of his delight, and injustice of his displeasure; and that he will punish and reward accordingly: all which necessarily imply an essential difference between good and evil, prior to human decrees. Thus an old *Grecian* sage quoted by *Clemens*, speaking of the office of the ancient Lawgiver, says: "He first of "all trained the race of mankind to justice by the in"vention of an oath*."

* Πρῶτος εἰς δικαιοσύνην ἀνθρώπων ἤγαγεν, δείξας ὅρκον. Strom. lib. i. See also note [C] at the end of this Book.

Again,

Again, when society was established, it was necessary that human laws should be inforced on a principle of RIGHT as well as *power*; that is, on a principle which would make them *obeyed for conscience sake*. But the preserving these *three* great articles of natural religion could alone subsist that principle. Therefore was the magistrate to provide for their support. But these being all that were necessary to this end, Religion, as such, was no farther under his direction. The consequence is, that no particular scheme or mode of religion was under his care as a magistrate, till he had covenanted and compacted to that purpose; as we shall see hereafter. But for a fuller proof of the necessity of these *three great principles* to a state, I refer the Reader to the first book of *The Divine Legation of Moses;* where he will find the cavils of Mr. *Bayle* against that necessity confuted at large.

Thus it is seen, that though the conservation of these principles belong to the magistrate, it is not because they make a part of the civil institute (for this would be violating the unity of its end), but as they are the very rock and foundation on which the edifice of a commonwealth is built. Nor is it, for that, the less within the province of the magistrate. It was equally the concern of the ancient *Ædiles* at *Rome* to see to the support of the foundations as well as to the repair of the public buildings erected on them. Nor is this distinction made without reason. For if the care of these principles were within the magistrate's jurisdiction, as making part of the civil institute, his office would extend to the *care of souls*; and then I can see no reason but that more, with equal pretence, might enter in, till the whole of religion devolved upon him. And how mischievous this

this would be to the state, and how much more mischievous to religion, the following discourse will amply demonstrate. But if these principles are within his care only as they are the ROCK on which society is erected, there is then abundant reason why it should not be enlarged. And yet many policies, both ancient and modern, by a preposterous kind of architecture, that enlarges the foundation at the same time that it narrows the superstructure, have so surrounded the commonwealth on all sides with this rock, that it puts one in mind of the old punishment of immuring malefactors within four walls. For a mistaken regard to virtue and religion hath, in all ages, disposed the magistrate to deviate from his proper office; till at length the care of the soul got the upper hand of that of the body, in his administration; to the infinite damage of mankind in all his interests.

Though one may easily conceive the magistrate industriously propagating this flattering delusion, in order to add power to his office, and veneration to his person; yet, I am persuaded, mistake first introduced this mischief: though fraud might, perhaps, contribute to support it. Because I find the error to have spread itself even into those communities where public liberty, and consequently where public good, have been most aimed at, and effected. Which hath so riveted the mistake, in the minds of some, concerning the magistrate's real office, that they have even ventured to accuse the wisest administrations of injustice: for, borne away with the common notion that his office extended to the care of souls, and finding the best institutes of civil laws framed with a manifest disregard to that care, they have rashly censured them for carnality and irreligion.

To vindicate such constitutions, and to remove this only

only objection to the principles here laid down, it may be proper to trace up, from their original, the several causes that have concurred to the mistake of the magistrate's real office; by which it will be seen, that what makes most for it, its *antiquity*, only proves the *inveteracy* of the mistake.

I. The first ground of this error was the confused mixture of civil and religious interests, to which the magistrate, in the execution of his office, had his regard attached. This, several causes had in several ages contributed to effect.

As FIRST, In the infancy of civil society, fathers of families (who were wont to execute the office of the priesthood) when they advanced, or were called up, to the administration of public affairs, carried that sacred character with them into the magistracy: and continued to execute both functions in person. So that the *care of religion*, which was thus by *accident* attached to the *person* of the magistrate, would naturally in time be thought inherent in his *office*.

Secondly, Most of the ancient law-givers, and institutors of civil policy, having found it necessary, for the carrying on their respective establishments, to pretend to inspiration, and the extraordinary assistance of some God *, unavoidably mingled and confounded civil and religious interests with one another; so as to animadvert on actions not only as *crimes* against the *state*, but as *sins* against that *God* who patronized the foundation; and consequently, sometimes, to make their adjustments and propor-

* See the Divine Legation of Moses, book ii. § 1.

tions between the action and the punishment rather according to this latter estimate.

Thirdly, PAGAN RELIGION had for its *subject* not only each individual, the *natural man*; but likewise the *artificial man*, Society; for whom, and by whom, all the *public* rites and ceremonies of it were instituted and performed*. So that here the care of religion became the care of the republic: The consequence of this was, that religion held the government in partnership; and nothing was consulted or executed without the advice of the oracle. Prodigies and portents were as common as civil edicts; and bore as constant a share in the public administration.

Fourthly, In after-ages, when the Roman emperors became Christian, agreeably to the zeal of new converts, they made the *civil* institutes *religious*, by introducing laws against *sin*; in which, as they were told by their teachers they were not only authorized, but directed, by the examples and precepts of that SCRIPTURE which they professed to believe. This greatly contributed to confound the distinction between a church and state. However, this false judgment did not owe its birth to the *Christian* Religion, where this distinction is so marked out and inforced, as not easily to be mistaken; but to the *Jewish*, in which those societies were consolidated, and, as it were, incorporated. For there they saw, in a civil policy instituted by God himself, and therefore to be esteemed most perfect, and, of course, worthy the imitation of all magistrates who professed themselves the servants of that God, they saw, I say, *sins* and *crimes* equally within the magis-

* See the Divine Legation of Moses, book ii. § 1.

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trate's jurisdiction. They did not reflect that *that* jurisdiction was the necessary consequence of a THEOCRACY*, a form of government different in kind from all human policies whatsoever.

Fifthly, in these later times, when the great separation was made from the church of Rome, in the fifteenth and sixteenth centuries; the people, in most places, except in England, procured for themselves their national reformation, supported by their ministers, whose heads were full of the Jewish dispensation ill understood. And, in some places, it being the fortune of the state, as well as church, to be new modeled, it was no wonder that, under such artificers, a ridiculous imitation of the Jewish state should be affected; and, consequently, that the magistrate should shew a greater attention to restrain *sins* than *crimes*. And here I cannot but, with much grief, observe, that this wrong judgement was not only pernicious to civil society, but highly injurious to the interests of the *Protestant Religion*. It did indeed contribute more than any thing besides to re-establish *Popery*, which was then shaken even to what itself calls, its very CENTRE OF UNITY. It put a sudden stop to the glorious progress which the *reformed Religion* was then making throughout Europe, from East to West. For the well-disposed princes on the continent finding, in the *reformed* ministers, a pragmatic spirit, which was for modeling the state as well as church, on their own theologic standard, adhered, or fell back, to the Papal power; as preferring an ecclesiastic tyranny they had been used to, before a new one, whose principles threatened an entire subversion of the established policies.

* Divine Legation, book v.

The excellent *Grotius* shall be my warrant that I have given no injurious account of the conduct of the *reformed* ministers: who, in the history of his own country, has exhibited to us a very lively representation of this whole scene. Speaking of the *Establishment* of the *reformed Religion* by the *States of Holland*, he says:—" Recepta PUBLICE disciplina, " quæ Genevæ et in Palatinatu Germaniæ passimque " alibi docebatur: hoc tamen interest, quod ejusdem " religionis ALII *diversas minus tolerant:* QUIPPE " NON IN HOC TANTUM ORDINATAS A DEO CIVI- " TATES AC MAGISTRATUS DICTANTES UT A COR- " PORIBUS ET POSSESSIONIBUS INJURIÆ ABESSENT, " SED UT, QUO MORE IPSE JUSSISSET, EO IN COM- " MUNE COLERETUR; CUJUS OFFICII NEGLIGENTES " MULTOS PŒNAM, ALIORUM IMPIETATI DEBI- " TAM, IN SE ACCERSISSE. Contra, istæ nationes " non modo," &c.*

Nor was *England* altogether free from the effects of this disorder. For those amongst us who were called *puritans*, having, during the distressed state of religion at home, been obliged to reside abroad amongst these new modelers of church and state, imbibed their ruinous notions of reformation: and returning home, on the approach of better times, began early to inforce their whimsies to the disturbance of their own country, till *Hooker*, in his immortal book of *Ecclesiastical Policy*†, put a stop to this religious frenzy. So that the spirit of *purity* seemed now to be subdued: When, towards the conclusion of our last unhappy civil wars, the famous Mr. *Baxter* took advantage, on the ruins of the constitution, to write his book *of the Christian Commonwealth.*

* Annales de Rebus Belgicis, lib. ii. Anno 1572.

† See note [D] at the end of this Book.

II. A se-

II. A second cause of this error arose from what is called the *establishment of religion* in the state. There never was a civil society, ancient or modern, but what had a RELIGION BY LAW ESTABLISHED. Which arising from a league or union between the civil and religious interests, it receives a delegated coercive power from the state; which, instead of applying to the promotion of their joint interests, as was the intention of the trust, it is too apt to divert to the support and increase of it's own. But of this, more hereafter. Now, one error arising from such *establishment* was, that these powers of the civil kind, which the religious society in such circumstances exercised, were inherent in it: and those who fell not into this, but saw it was an intrusted power, borrowed from the state, yet ran into an opposite; namely, that the restraining of *sin*, which was aimed at in the right application of this *borrowed* power, was one of the natural, essential tendencies to which the civil magistrate, as such, should *himself* direct that power. Whereas, indeed, such application was only the result of that union between the civil and religious interests.

III. A third cause of this error was, that, though in many cases, the malignity of an action varies, according as it is applied to civil or to religious interests; and that the direction of civil laws is generally regulated on the degree of evil the action occasions to the state; yet, very often, too, the degrees are the same, and the malignity of the *sin* and *crime* is equal. In this case, therefore, it could not be seen, which was in the legislator's intention to punish; the *crime*, or the *sin*. And so the people concluded

that both were in his view. Add to this, that these two complex modes, having, in their composition, many simple ideas, common to both, were not easily seen to be, what, in reality, they are, two distinct modes, but thought, only two terms of one and the same: Which would very much help forward the error whose original we are here deducing.

IV. But the last general cause we shall assign of this error, was the magistrate's punishing, and by a just exertion of his power, some immoral actions, *as sins:* and even restraining *speculative opinions.* We have observed, that the only bond of society amongst equals is the sanction of an *oath*, as it is an appeal to heaven, the avenger of falshood and injustice. And *common swearing* directly tending to destroy the reverence due unto it, all states have concurred to punish that impiety. But an oath derives it's force and virtue from those three great principles of natural religion, *The being of a God,—his providence,—and the essential difference of good and evil:* which therefore come within the office of the civil magistrate to support. Now the people seeing moral actions, as they regard the Deity, and speculative opinions, as they regard truth, (the two parts which make up religion, in the largest sense of the word) under the magistrate's jurisdiction, and not conceiving the reason, as here explained, concluded that the whole of religion was under his care and direction*.

* See note [E] at the end of this Book.

## CHAP. V.

### OF THE NATURE AND END OF RELIGION.

HAVING thus explained the nature and end of CIVIL SOCIETY, together with the origins of those errors which men and even states, in every age, have been apt to entertain concerning it; I come in the next place, as I proposed, to treat concerning RELIGION;

Whose end is first, *to procure the favour of God*; and secondly, *to advance and improve our own intellectual nature.*

As to the *first* end, the *favour of God*, this, common sense informs us, one man cannot procure for another; nor hinder him from procuring for himself; for as integrity of heart is what alone recommends us to his favour, every one hath this in his own power. It is evident, then, that man, in his *religious* capacity, had no occasion to constitute a society for procuring for himself the *favour of God*; as he had occasion in his *social*, to secure to himself the enjoyment of his liberty*. If, therefore, as a religionist, he entered into society, it was for a reason different from that for which, as a civilist, he constituted a commonwealth; that is, it was not to guard himself against the malice of man.

* Regium imperium quietem publicam, episcoporum sollicitudo felicitatem æternam hominibus procurat, testante apostolo. Reges sæcularibus, pontifices spiritualibus ordinandis se impendunt. Quamdiu neutra potestatum in alienos limites insiliet, mutua concordia res Christiana amplificabitur.—Soli principi potestas in hæc terrena et temporalia imperandi asseritur, ut ecclesiæ sacra et spiritualia procurandi. Marca, lib. ii. c. 1. F. T.

And this leads us to consider the *second* end of religion, namely, *the advancement and improvement of our* INTELLECTUAL NATURE. Now this, we can as easily conceive how a number of *religious* beings consociated may advance, as we can how a number of *secular* beings consociated may advance and improve our ANIMAL NATURE, the *secondary* end of civil society.

To see the necessity of forming this society, we are to consider how the *intellectual nature* is improved by religion.

Religion, as an act or exercise regarding its object, is a commerce and intercourse with the supreme cause of all things. Which consisting, on our parts, in suitable sentiments, raised in us by *contemplation on his nature, and on the relations we stand in towards* HIM, the proper and adequate object of all dependent beings, must needs advance and improve our *intellectual nature* to its utmost height.

But now it may be asked, whether this intercourse, as it begins, so likewise, it should not end in mental exercise; and, consequently, whether religion be not, what *many* seem now disposed to think it, *but a kind of divine philosophy in the mind*; which composes only a *spiritual and mystic body* of its followers? For if this be indeed the case, there is an end of all *religious society*; this species of a religion neither standing in need, nor being capable of such a community.

To resolve this question, we are to consider, that, as RELIGION is an intercourse with the Creator and Governor of all things, it is the object of all rational dependent beings. Now we can easily conceive how a mere *mental religion* may fit the nature of pure immaterial spirits, of which doubtless there are innumerable degrees within the vast limits of the universe.

verse. But man being compounded of two contrary, though, by the divine skill, united natures, *soul* and *body*, it seems necessary, at first sight, that religion *here* should partake of the character of its subject, and be composed equally of *internal meditations*, and *outward acts and offices*. This will appear on considering his *nature* as resulting from this composition; and the *situation* in which Providence hath been pleased to place him. To fit us for the station here assigned us, it was seen proper, as we find by experience, that the passions of the mind should be greatly influenced by the temper of the body; in which covering likewise, the intellectual faculties should be so inveloped as to render vain all attempts of emancipating ourselves from the body, while our business was in this gross material world. Now how unfit such beings are for a mere *mental religion* appears evident from the very state of the case. Experience likewise hath constantly confirmed these observations. For whenever men, by a mistaken aim at perfection, have endeavoured, in their religious exercises, to defecate the grossness of sense, and soar up into the region of pure ideas, it has been found that just as the temper and constitution was, so has been the consequence and issue: If *cold* and *phlegmatic*, their religion has sunk into quietism; if *bilious* or *sanguine*, it has flamed out into all the frenzy of enthusiasm.

But further, our station and circumstances here contribute to render our natural incapacity, for such a mental religion, still more invincible. The supply of the necessities and conveniences of life, through all our intercourses for the satisfaction of those necessities and conveniences, subjects us to perpetual converse with the most sensible and material objects.

But

But often repeated converse produces HABITS. And of what force habits are in keeping the mind bent their way; and how obstinately they adhere, when we endeavour to get free of them, is as well known, as it is with difficulty remedied. Now these habits are so opposite, so averse to, so incompatible with mental contemplation, that, to do even so much this way, as the very essence of religion requires, we must bribe sense and matter, and draw them against themselves, to assist us in the rational offices of religion. If we add to this, that the common people, who compose the gross body of mankind, and for every individual of which, religion is intended, are, by their station and employments, most immerged in matter, we shall need no further proof, that a mere mental intercourse with God, which makes religion only a *divine philosophy in the mind*, is altogether unfit for such a creature as man in his present station upon earth.

But supposing all these impediments of ideal devotion to be away; yet if men be not so far spiritualized as to give and receive an intuitive knowledge of one another's mental acts of religion, still such a religion would not properly fit them. Because, to the due exercise of religion it is required that open profession of it be made by each individual, so as to be seen by others. For, that reason which tells us it is our duty to acknowledge all the relations in which we stand towards God: the same tells us, it is equally our duty to make those acknowledgements public. Again, of the blessings, Providence bestows upon us, some are particular to the individual, and others common to the species. Now, as return of thanks is due from each man for the blessings he has received in particular; so reason tells us, that for those bestowed on mankind in common, a joint return should

be made, by as many of the kind together as can conveniently assemble for this purpose.

From what has been said then, it appears, that such a religion as is suitable to the nature of man, HERE, must have *our meditations on the divine nature* drawn out into ARTICLES OF FAITH; and *our meditations on the several relations in which we stand towards him* digested into suitable and correspondent ACTS OF RELIGIOUS WORSHIP; and both of them to be professed and performed in COMMON. Which things, as we shall now shew, require the aid of a SOCIETY to regulate and establish.

1. Opinions concerning the nature of the Deity so entirely influence all religious *practice* that *this* invariably takes its character from *those*; and becomes more or less perfect as *those* are nearer to, or further from the truth *. On which account the greatest care is to be taken to preserve opinions pure and untainted. But this cannot be done but by a SOCIETY; as we may understand from the very mention of those two ways which all such societies have ever put in practice. 1. By reducing men's belief into one common formulary. And 2. By making the profession of that formulary the term of communion. For by this means there is a *summary of belief* in aid of the ignorant; and a *common repository* that men may always have recourse to for information. Where it is to be observed, that the wider the bottom is made, and the more general the terms of communion (consistent with the being of a Society), the wiser and juster is that religious institution.

2. The several *acts of religious worship* are correspondent to the sentiments arising in us from our meditation on the several relations we stand in towards

* See Plato's Euthyph.

God;

God; and instituted with design to aid and improve those sentiments. Now, as meditations, not tempered with these outward acts, are apt, as we have shewn, to fly out into *enthusiasm*; so outward acts not regulated by, nor adapted to those meditations, are as subject to degenerate into a childish unmeaning *superstition*. And, how much enthusiasm depraves all the faculties of the mind, how much superstition dishonours the service of our Maker, is disputed by no one acquainted with the nature and effects of these direful evils. The greatest care therefore is to be taken, that the *solemn acts of religion* be preserved *simple*, *decent*, and *significative*. But then this can be done only by providing persons set apart for this office; whose peculiar employment it shall be to preside in, direct, and superintend the *ritual of worship*, lest any thing childish, profane, or superstitious should (as it certainly would, if left to every one's fancy) obtrude itself into *religious service*. Now public officers and ministers must act by some *common policy*, which may regulate and settle their several employments, powers, and subordinations. But that *policy* is no other than the laws of a society properly so called.

What hath been here said is sufficient to manifest the Divine Wisdom of the *Author and Finisher of our Faith*, who, revealing the will of his heavenly Father to mankind, actually formed our holy religion into a society, on a common policy, with public rites, proper officers, and a subordination of the ministry. So that though we had not proved that religion forms a society by *nature*, from whence arises the equity of an *established religion* at large: yet we now find it doth so by *institution*, which justifies an *establishment* wherever the religion professed is the Christian. But, how certain soever it be that *religion composes a society by nature*;

*ture*; nevertheless we may at the same time see, from a remarkable circumstance, in the rise and progress of the people called *Quakers*, how little the plainest truths are secure from contradiction. These men, in spite of the records of sacred history, which assure us, that *Jesus* instituted a rule and government, and formed his Followers into a *church* or society, yet regard *Christianity* as only a kind of divine philosophy in the mind, it being the fundamental principle of this sect, *That there is no other reason or measure of compliance or conformity, in matters relating to God, than the conviction of the light and spirit of* Christ *in every conscience.* But here lay the mischief; the very *principle* on which this wise sect was formed, had a necessary tendency to its immediate destruction, reducing all aggregate bodies to a mere heap of sand. And in fact it was running into all the confusion which is necessarily produced by such a principle, when PENN and BARCLEY arose to lick this abortion into shape. *Penn* soon perceived that no sect could subsist on such a principle; and therefore set upon convincing his *friends* of the necessity of some common policy: but perceiving that if he should insist on that necessity for the sake of *religion*, he should too openly contradict their darling principle; he argues for this common policy from the benefits resulting from it to *civil life*: and thus, instead of a *church*, he hath helped to make *Quakerism*, considered in its discipline, a *civil community* or *corporation*: and such indeed it is at present in much perfection. A memorable instance, that truth rarely fails of requiting its opposers: while these very men, the most averse to every Thing that looks like a church, or church-policy, have by their use of it, under another name, borne, before they were aware, the strongest *testimony* for its necessity.

I. RELIGION thus composing a society, we are now to consider what kind of society it is. First then it must needs be SOVEREIGN, AND INDEPENDENT ON THE CIVIL*. Natural dependency of one society on another, must arise either from the *law of nature* or of *nations*.

Dependency by the *law of nature* is from *essence*, or *generation*. Dependency from *essence* there can be none. For a dependency arising from thence is a mode of natural union and coalition; and coalition only there exists where an agreement is found *in eodem tertio*; but there being no such agreement to be found between two societies essentially different as these are, there can possibly be no dependency: now this essential difference is evident from their having *different ends and means*; the ultimate end of religion being the care of souls; and the ultimate end of civil society the care of bodies; and the means of that being by *external* application; and of this by *internal*. Dependency which arises from *generation*, is where one society springs up from another, as corporations, colleges, companies, and chambers in a city. These, as well by the conformity of their ends and means, as by their charters of incorporation, betray their original and dependency. But *religious society*, by ends and means entirely different, gives *internal* proof of its not arising from the state; and

* Regnum et sacerdotium distinctas potestates in suo quamque ordine supremas esse—omnia monumenta clamant, &c. Defensio declarationis celeberrimæ quam de potestate ecclesiastica sanxit clerus Gallicanus 19 Martii, 1682, ab Illust. ac Reverend. JACOBO BENIGNO BOSSUET, Meldensi Episcopo, ex speciali jussu Ludovici Magni Christianissimi Regis scripta et elaborata, l. v. c. 3. F.T.

we have shewn *, by *external* evidence, that it existed before the state had any being.

Again, no dependency can arise from the *law of nations* or the civil law. Dependency by this law is, where one and the same people composing two different societies, the *imperium* of the one clashes with the *imperium* of the other: for, in such case, the lesser society, by that law, becomes dependent on the greater; because the not being dependent, would make that great absurdity in politics called *imperium in imperio.* But now civil and religious society having ends and means entirely different; and the means of *civil* society being *coercive power*; which power, therefore, the *religious* hath not †; it follows that the administration of each society is exercised in so remote spheres that they can never meet to clash; and those societies which never clash, necessity of state can never bring into dependency on one another.

Indeed, were the common opinion true, which we have been at some pains to confute, *That the magistrate's office extended to the care of souls*, it would then follow, from what hath been said of dependency from *essence* and *generation*, that the religious society was subservient to, and a creature of, the state: for then it could not be reasonably thought constituted but by the magistrate: and constituted by him to serve and help him out in the discharge of his office;

* See the Divine Legation of Moses, book iii. § 6.

† Verum dominatum esse penes Reges, non autem penes Sacerdotes—in Legibus Ecclesiasticis locum non habere summum imperium, in quo ordo imperandi & parendi id exigit, ut subditi dominorum mandatis cedant, quemadmodum Apostoli disertissime docuerunt.—Dominus Ecclesiasticam potestatem et regiam componendo, Apostolos allocutus hæc verba protulit, "Reges gentium "dominantur eorum, vos autem non sic." Marca, in præfatione secunda. F. T.

who

who might have endowed his creature, the church, in its first constitution, with what powers he thought proper. *Hobbes* and his followers pushed this matter home. They supposed that, if indeed there were any soul to be taken care of, the care naturally devolved upon the civil magistrate; who, by delegation, might transfer it on proper officers, commissioned by him to model, and bear rule in, a church. And because somebody or other at that time chanced to think, that the people were the keepers of the king's conscience*: he, who, above all things, loved contradiction, would needs have it that the king was the keeper of the people's.

On the other hand, *did the care of the religious society naturally extend to the body* and its concerns, then would the *state* run the risque of becoming dependent, and a creature of the church. For *religious society* having the noblest province, the care of souls; and the most extensive, when the care of bodies is joined to it; and pretending for the most part, and sometimes really having, a *divine*, while the state has only a *human original*; as greatly as the *spiritual* excels the *corporal*; and the *whole* is more than a *part*; and *divine* authority is above *human*, so high would men deem the *religious* society to be above the *civil:* and that superiority which the church would thus assume as of *right*, she would find within herself a *power* to maintain. For the care of bodies necessarily implies an inherent *coercive* power in whatever society that care is found.

And, in effect, these conclusions have been long ago reduced to practice under the *Christian* religion. For the church of *Rome* having entertained this exten-

* See the Story of the Earl of Strafford.

sive

sive idea of a religious society, she has, consentaneously thereto, exalted *the chair apostolic* far above the thrones of mere earthly potentates*; of whom she has required and received homage; and once bid fair for making that homage universal. For she would persuade us, as it should seem, that when *Jesus* said, *His kingdom was not of this world*, that he had before transferred it, with the keys of the other, to St. *Peter*.

But this, however, is worthy our observation, that, as different ways as the *Hobbeist* and *Papist* look, in speculation, they tend to the same point in practice. For though the *one* would have the magistrate discharge his office only as executioner of the church; and the *other* authorizes him to use his power as the maker and creator of it; yet they equally concur in teaching it to be his right and office to domineer over conscience. What they differ in, is only a point of ceremony.

II. We come now, in the second place, to shew *that this independent religious society*, HATH NOT, IN AND OF ITSELF, ANY COERCIVE POWER OF THE CIVIL KIND†; its inherent jurisdiction being in its nature and use entirely different from that of the state. For if, as hath been proved, *civil society* was instituted for the attainment of one species of good, all other good, requisite to human happiness, being to be attained without it; and that civil society attains

* See note [F] at the end of this Book.

† Hoc præcipuum est discrimen inter canonum decreta et Leges publicas, quod illa unicuique Christiano felicitatem æternam pariant, et ad eum finem instrumenta accommodata subministrent; hæc vero reipublicæ pacem & singulorum civium, quatenus sunt partes reipublicæ, promoveant, &c. Marca, l. ii. c. 10. F.T.

the good for which it was ordained by the sole means of coercive power, then it follows, that the good which any other kind of society seeks may be attained without that power: consequently, coercive power is unnecessary to a *religious society*. But that means, which is *unnecessary* for the attainment of any end, is, likewise, *unfit*; in all cases, but in that where such means are rendered unnecessary by the use of other means of the same kind or species. But religious society attains its end by means of a *different kind*; therefore coercive power is not only unnecessary, but unfit. Again, *ends* in their nature different can never be attained by one and the same *means*. Thus in the case before us, coercive power can only influence us to outward practice; by outward practice only is the *good*, which civil society aims at, immediately effected; therefore is coercive power peculiarly fitted to civil society. But the *good* which religious society aims at cannot be effected by outward practice; therefore coercive power is altogether *unfit* for that society.

1. But it may be objected, "That though indeed *outward practice* doth not affect religion, as it is the object of each individual, yet it does affect a religious society; *salvation of souls* being the end of religion, but *purity of worship* the end of religious society: now *purity of worship* is affected by outward practice; and to outward practice is coercive power fitly applied."

To this I reply, that *purity of worship* is the immediate end of religious society, and *salvation of souls* the ultimate end thereof. Consider then religious society, with regard to its ultimate end, and all we have said above of the unfitness of coercive power still

still holds good. Consider it with regard to its immediate end, purity of worship; and then, indeed, there will appear no unfitness in the application of coercive power. Thus we gain by the objection, a concession, which we must otherwise have demanded, as the foundation of a claim, we always reserved to ourselves, to make in favour of religious society, which is, that it hath in itself the power of expelling refractory members from its body; or, in other words, *a right of excommunication.* Nor is this recalling any thing, we had before given up: for if excommunication may be properly called a coercive power, it is yet no coercive power *of the civil kind,* or what the state could exercise; the sole power here confessed not to be inherent in a church. It only then remains to prove, *that this power is usefully and necessarily applied,—that it is all which religious society stands in need of,—and that more is unfit and unjust.*

As the immediate end of religious society is purity of worship; and as a necessary means of preserving that purity is *uniformity of worship*; which cannot be maintained but by expelling from the community all who refuse to comply with what is publicly established, therefore *this power of expulsion in every religious society is most fit and useful.* But we go further, and say, that every kind of society, whatever be its end or means, must necessarily, as it is a society, have this power of expulsion: it is a power inseparable from the very being of society, which can subsist only in the conformity of the will of each natural member to the will of that artificial body which society produces: this being violated, as it must be unless all contraveners be expelled, the society dissolves, and falls back again into nothing. Just as

would be the case of the natural body, should not nature, whose conduct societies, in this case, imitate, evacuate noxious and malignant humours.

But then, secondly, this so useful and necessary power is *all which a religious society stands in need of.* For by the exercise of this power, conformity in belief and worship is preserved; which securing the essence and end of a church, is all that is necessary to the well-being of Society.

In the last place, *more* coercive power than this *is both unfit and unjust* to be exercised by a religious society. That it is *unfit* appears from hence: the immediate end of religious society being purity of worship, it requires outward conformity, to what is publicly established: and, at the same time, its ultimate end being the salvation of souls, it requires likewise that this outward conformity be accompanied with a suitable disposition of mind; but any further power than *simple expulsion* tends naturally to make a divorce between these two things. For such further power *forces*, more or less, to *outward* compliance with the community; but as the will cannot at the same time be forced, here is likely to be only outward compliance, without an inward disposition suitable thereunto: so that by this means the ultimate end of religious society becomes defeated: further power therefore than simple expulsion is unfit. That further power is *unjust*, appears from hence: by the law of nature every man hath a right of worshipping God according to his own conscience. Now when it so happens that a member of a religious society cannot conscientiously join in the public worship, and be on that account expelled by the society, in order to preserve its essence and end, such member is so far from being debarred, by that expulsion, of his right of wor-

worshipping God according to his own conscience, that he is thereby put into a way of exercising his right without molestation. But if any further power be allowed, either of keeping such member within the society against his will; or of annexing, to expulsion, any mulct on his person, goods, or reputation; in such case, the right of nature is scandalously violated*: a force being put upon his conscience, either by direct restraint, or by obliquely biassing the determination of his will. All coercive power therefore, other than *simple expulsion*, is unjust.

2. But it will be again urged perhaps, that, in thus removing one objection, we have made way for another; which is, "That by granting a coercive power to the church, for such (they will say) is the right of excommunication, we destroy the argument of her independency by the *law of nations*, founded on her having no coercive power; which power clashing with the state's, brings in an *imperium in imperio*; to remove which, *that* law prescribes her dependency." This too admits an easy solution. We say that civil society having no right to reward any of its members by admission into a religious society; and no right to punish by excluding from it; the church's exercise of this power can never possibly clash with the state; and consequently the argument for its independency still holds good.

We are now come round; and have at length proved, what in the beginning of this chapter had been asserted, that RELIGIOUS SOCIETY HATH NO

* Cum ergo et Christus et Apostoli, quo loco explicant ecclesiasticæ potestatis censuræque vim summam, nihil de adimendis temporalibus juribus aut rebus edicant satis profecto constat non id ad potestatem Ecclesiasticam pertinere. Bossuet, l. v. c. 23. F.T.

COERCIVE POWER OF THE CIVIL KIND: for we have shewn that this power of expulsion from a religious society, is not a power which the state can exercise.

Nor doth the denial of a coercive power make the church an enervated, defenceless body, exposed either to the injuries of those without, or to the insults of those within: it hath still all the power and authority, that, as a religious body, it can exercise; all that is necessary to preserve it a regular well-ordered society; in which are rites and ceremonies, ministers with degrees of subordination, and judiciary assemblies: for the power of constituting a discipline and a formulary of communion, both enforced by excommunication, will still remain unto it. What hath made some men apprehend sad consequences from the church's being thus left without the guard of coercive power, is their seeing it stand possessed of some advantages, by them supposed essential to a church, which coercive power only can secure. But these may be eased of their apprehensions by being told, that those advantages are only adventitious*, and bestowed upon it by the state, in consequence of an UNION; and as the state granted these, it granted

* Nempe utriusque potestatis sancta societas postulabat, ut altera alterius munia in speciem usurparet, ex jure quo amici amicorum rebus utuntur—Quo demonstratur non esse semper pro vero innatoque Ecclesiæ jure reputandum id quod ea egerit, habuerit, decreverit, tacentibus Regibus; sed diligentissime secernenda quæ a Christo concessa sunt, ab iis quæ Regum auctoritate, consensu, permissu, conniventia, silentio denique jusserit aut habuerit.—Ac tamen si nullæ concessiones producuntur, valere tamen ea omnia ex concessione tacita facile demonstrabunt. Quid ita? Quia scilicet ipsa rerum natura docet ecclesiastica non nisi per Ecclesiam haberi posse. Sic ubi Ecclesia feudos adimit, concedit, aut aliud quid ex civili potestate decerpit; ea civilis potestatis consensione saltem tacita accepta referemus. Bossuet, Defensio Declarationis, &c. l. viii. c. 4. F.T.

coercive

coercive power likewise to defend them; and that, when the *union* is dissolved, they both fall together, without any essential damage to the church, as a Religious Society.

Thus have we endeavoured to establish these *two great essential Characters* of a Religious Society, its INDEPENDENCY, and its DISCLAIM OF COERCIVE POWER: where, it is worth observing, that the arguments employed to prove that each of these characters do indeed belong to it, are strongly inforced by the necessary connexion there is between them. For admit the Religious Society to be *independent*, and you invincibly destroy all pretence *to coercive power*; because coercive power introduces an *imperium in imperio*, which is removed only by destroying the independency. Admit again, that Religious Society has *no coercive power*, and you supersede all the state's claim of *dependency*: a claim solely founded on the evil of an *imperium in imperio*, which evil can arise no otherwise than by the church's exercise of an inherent coercive power: and yet these plain, and almost self-evident, principles have had so ill reception in the world, that They have been overlooked and neglected; while two very different systems of church-government have divided the general suffrage between them. Different, I say, not only from what is here delivered and explained, but from each other; yet agreeing in this, to make an unnatural divorce between the two essential characters, which are here shewn to have an inseparable connexion in nature, *independency* and *no coercive power*: the one giving to the church this independency together with coercive power; and the other stripping and depriving it of both one and the other.

I. The first of these systems is that of THE HIGH-CHURCH CLERGY*, which contends for the absolute independency of the church, with all the prerogatives and powers it is found to stand possessed of, under an establishment. If this error be not sufficiently detected already, the shewing, as I shall do in the next book, how the church became possessed of several of its prerogatives and powers, now legally enjoyed by it, will abundantly expose it. I will only observe, that this model, if indeed it be not the true POPISH system a little disguised, is infinitely more irrational than that: Because a church with inherent coercive power, which, with a false modesty, stops at mere independency, obtrudes a scheme attended with all the evil of an *imperium in imperio*; when going one step further, and taking the state into pupilage and protection, would effectually remove it. Backwards or forwards this system must needs go: for a church so circumstanced, in order to avoid that evil, must fall into the state; or the state into it. This the COURT OF ROME plainly saw; and therefore *chose the better part*. And a pretence was not wanting. For an inherent coercive power, in the church, necessarily implying a care of bodies, as one of the ends of that society (for to bodies only can coercive power be rationally applied) all states when employed in this care, might be fairly understood as only doing journey-work for the church. Thus that refined court chalked out no idle plan of power, when, together with the brute thunder of the *vatican*, it forged real fetters for the prostrate and servile WEST†.

* See note [G] at the end of this Book.
† See note [H] at the end of this Book.

II. The

II. The other system is that invented by, and (I wish I could say) peculiar to THE ENEMIES OF OUR HOLY FAITH; at the head of which stand the two famous authors of THE RIGHTS OF THE CHRISTIAN CHURCH, and of THE INDEPENDENT WHIG. The *true* design of these books is evidently this, to persuade us that the Christian and all other churches, in their natural state, without coercive power, are creatures of the civil magistrate. For while the *pretended* drift be to shew from whence an Established Church receives its coercive powers, the arguments they employ conclude against a church's natural independency in any condition whatsoever. But it is curious to observe the different routes this noble pair of athletes have taken to arrive at the same place:

The author of THE RIGHTS comes first.

*At, quum aspicias tristem, frugi censeas.*

He hath taken up the argument of Hobbes; and affects the tenderest concern for the good and happiness of the state. So that whenever a church comes in his way, he falls upon it with the old battery of *imperium in imperio.* But, in this, less honest than that unlucky philosopher. Hobbes * owned the tendency of his argument; and inforced it for the sake of that very tendency. But this writer seems willing you should believe that it concludes only against a *High Church Clergy.*

The writer of THE INDEPENDENT WHIG, who appears to have more vivacity than his formal brother, is for quicker dispatch. His ready road led him on to the destruction of all *Church Officers*, and the very being of a *Ministry:* which that he might the easier

* See note [I] at the end of this Book.

bring

bring about, he has represented all public rites, and assemblies for worship, as impertinent; by shewing the natural *inefficacy of prayer* for obtaining our petitions; which again (for, to do him justice, he is very consequential), he establishes on *the doctrine of fate*. This he well saw would bring on a thorough dependency: a dependency that was like to last; as being produced by the destruction of the society itself. And yet, after all this, he hath the honest confidence to talk of the church as of a *society*. But a society without officers, degrees of subordination, and powers adapted to its nature, being as inconsistent, unintelligible an idea as a house without walls, roof, or apartments; we must conclude that he who so talks, intends to give us a society in words, but to deprive us of it in reality.

In earnest, I do not know a greater insult ever put on the understandings of men than by these two writers; while it was presumed that the gloom of equivocation, which spreads itself through the formal *chapters* of the one; and the glare of puerile declamation, that tinsels over the trite *essays* of the other, could hide their true end from the observation of those whose destruction they were conspiring. For, as Tully says of the two assassin gladiators, *Par est improbitas, eadem impudentia, gemina audacia; & ubi, Quirites, multa audacter, multa improbè, multa perfidiosè facta videtis, ibi* SCELUS *quoque latere inter illa tot flagitia putatote* *.

Let the reader then but attentively consider what hath been here said of the different natures of civil and religious society, and he will need nothing more than the plain principles, deduceable from thence, to

* Orat. pro Sex. Ros. Amer.

unravel

unravel all the silly sophistry which makes up the bulk of these two famous performances; though the first of them, the parent of the other, hath imposed upon a great writer *; and, as it is pretended, was planned by the assistance of one still greater †.

On the whole, how different soever these *High-church* and *Free-thinking* system-makers would have their notions thought from *Popery* and *Infidelity*, they are unavoidably drawn, by the alacrity of their own heaviness, into the very centers of *Malmsbury* and *Rome*; from whence indeed they derived their birth; but are, I know not how, ungraciously ashamed of their progenitors.

* Le Clerc. † Mr. Locke.

## NOTES to BOOK I.

### P. 34. [A]

THIS will aid us to resolve a doubtful question; namely, *Whether a banished man be a subject of the state from which he hath been expelled?* Hobbes and Puffendorf hold the negative; and Tully, with the excellent Lord Chancellor Hyde, the affirmative. The former, in support of their opinion, say, that, by the very act of expulsion, the state gives up and renounces all right of subjection: the latter only appeal to the practice of societies; the reason of which practice, as here given, seems to determine the question in their favour.

P. 43 [B]. Whoever reads what is here said of the different views and ends which God and men had in instituting the two several communities, *Civil* and *Religious*, cannot but be surprised at the extreme ignorance or inattention of *J. J. Rousseau, Citizen of Geneva*, who, in his *Contract Social*, speaking of the means employed by the ancient lawgivers to procure submission to their laws, concludes his observations in these words—" Il ne faut pas, de tout ceci, con-" clurre avec WARBURTON que la politique et la " religion aient, parmi nous, UN OBJECT COMMUN; " mais, dans l'origine des nations l'une sert d'instru-" ment à l'autre." p. 59. " But from all this we are " not to conclude with WARBURTON, that civil " policy and religion have, amongst us, one COM-" MON OBJECT; but in the origin of nations, one " was

" was made an instrument to the other."—Now this whole chapter of the *Alliance* is written for no other purpose than to prove that Civil Policy and Religion had not ONE COMMON OBJECT, but TWO, entirely different and distinct. The very thing which possibly misled him (viz. the title of my book, *The Alliance between Church and State*) had he duly attended to it, would have set him right: for the word *Alliance*, when used, as here, in a civil sense, and applied to *Church* and *State*, shews that, in my opinion, *Policy and Religion* HAD NOT ONE COMMON OBJECT: because an *Alliance* between two communities implies the independency of each: but had the Church and State *one common object*, this would destroy the independency of one, in order to avoid, what of necessity must be avoided, an *imperium in imperio*. If Mr. Rousseau, by *the common object held by Warburton*, means, *the good of mankind*, he either trifles or prevaricates. In this sense, all the ordinances of God, all the legitimate institutions of man, have *one common object*. The consequence of all this is, that either Warburton or Rousseau was here upon a subject which he did not understand. Yet this is the man who says to Christophe de Beaumont, Archeveque de Paris, " Monseigneur, j'ai " cherché la verité dans les livres; je n'y ai trouvé " que le mensonge & l'erreur—C'est souvent un " petit mal de ne pas entendre un auteur qu'on lit: " mais c'en est un grand quand on le refute, et un " tres grand quand on le diffame."

But if this writer be consequent, the principle, that *Civil Policy and Religion have one common object*, is his own: for he holds, that though the Magistrate ought to tolerate Religions already introduced and spread abroad in the community, yet he

he is under no obligation to suffer new ones to be introduced; and that in policy he should not do it. —" Quant aux religions une fois etablies ou tole-
" rées dans un pays, je crois qu'il est injuste et
" barbare de les y detruire par la violence, et que
" le souverein se fait tort a lui-même en maltrai-
" tant leurs sectateurs. Il est bien different d'em-
" brasser une religion nouvelle, ou de vivre dans
" cette où l'on est né; *le premier cas seul est punis-*
" *sable.* On ne doit ni laisser etablir une diversité
" de cultes, ni proscrire ceux qui sont une fois
" etablis." Now if M. Rousseau says this upon principles, and does not merely copy Bolingbroke, as Bolingbroke is copied by Voltaire, he must needs espouse the opinion which he falsely charges upon the Author of the ALLIANCE, *that Civil Policy and Religion have one common object*, for this opinion making Religion a Creature of the State, she may always be so treated as best serves the ends of the civil magistrate.

P. 46. [C]. From hence we may collect how pernicious it would be to *Society*, and how destructive of its end, to multiply the use of oaths to inferior purposes: for if the sanction of an oath be the great fundamental cement of civil society, and the multiplying of them doth unavoidably tend to dissolve (as it is clear it does) all their force and efficacy, such mistaken politics must prove very fatal to the state. Hence too we may see, it would be as bad policy, in a contrary extreme, to dispense with the religion of an oath in matters of highest moment, out of indulgence to tender consciences. But that which shews such indulgence to be pernicious to society, shews the claim to it to be vain and ill founded; there

there being no exemption, on pretence of conscience, from the necessary demands of society. And for politicians to let one part of their fellow-citizens loose from the religion of an oath on the most indispensable occasions, and to tye up the rest so closely by it, and even for trifles, looks as if they had the same notion of the *moral* world, that certain philosophers have had of the *natural:* and that the quantum of oaths in society was like the quantum of motion in the universe, always to be kept the same: and a want in one place to be made up by an abundance in another.

P. 52. [D]. It is very true that the new modeling *ecclesiastical* Government was the principal point debated in that famous dispute: but then the *Puritans* contended for that Reformation on principles that equally concluded for a Reformation in the Civil likewise: and this Mr. Hooker well understood, when he took so much pains to overthrow their fundamental maxim, the *head theorem*, as he calls it, of their scheme:—*That the scripture of God is in such sort the rule of human actions, that simply whatsoever we do and are not by it directed thereunto, the same is sin.* Now who sees not that this principle pursued, brings on, directly and necessarily, a Reformation of the civil government upon Jewish ideas? The very error of the reformed ministers of that time. This, as we say, was not hid from the penetration of this great man. *The reason* (says he, in his preface), *wherewith you would persuade that Scripture is the only rule to frame all our actions by, are in every respect as effectual for proof, that the same is the only law whereby to determine all our Civil Controversies:* and therefore to root it out for ever was the main

main reason, I suppose, why, in a particular dispute, he goes so far back as to give a long account of the original of laws in general, their several kinds, and their distinct and contrary natures.—But the best comment on this *puritan* principle are their actions, when in power. They once had that power—Their use of it is well known.

P. 54. [E]. After all this, one would not have expected to find the following paragraph, in the fourth volume of the late bishop of London's Sermons, as the last result of his thoughts on this question, though they were the first in which he had been brought up.—" If the FATHER OF A FAMILY has " his authority from God, and rules not only over " his own children, but the servants and creatures " of the Almighty, and ought therefore to have a con- " cern for God and religion; is the case of the MA- " GISTRATE different? Are not his subjects also the " servants and creatures of God? And is he not the " minister and vicegerent of God, and therefore " bound, IN THE FIRST PLACE, to have a regard to " his honour, who is the common master of him and " his servants." p. 377, 378.

All this is so loosely expressed, that without returning to the bishop's original principles, one can hardly divine what he would be at. For did any magistrate, who believed a God and his government, ever hesitate *to have in the first place a regard to God's honour?* Our duty to God ever taking place of the two other branches of morality, those which regard our neighbour and ourselves. Or did any subject ever quarrel with the magistrate on account of that preference? We must conclude therefore, that the bishop, in this paragraph, would insinuate (for, at this time of day,

no

no man, who had regard to his own character, would venture to do more) *that religion, as such, is properly within the jurisdiction of the magistrate, as such.* A long contested question; and which, this chapter is employed to confute.

Taking this to be the bishop's meaning, let us see how he supports his position. THE FATHER OF A FAMILY (says his lordship) *having his authority from God, to rule not only over his own children but the servants and creatures of the Almighty, ought to have a concern for God and religion.* THE MAGISTRATE'S COMMISSION IS THE SAME: *therefore the magistrate is in the first place to take care of their religion.* The argument, we see, supposes, that the office of *father* and *magistrate* is the same, and derived from the same root and original. If this be not true, the argument falls to the ground. But no man, unless he be a follower of *Folmar*, and a maintainer of the *divine hereditary right* of kings, will pretend to say that PATERNITY and MONARCHY are equally derived from the same source. Those who have exploded the doctrine of *passive obedience and non-resistance* tell another story. They say, that fathers and patriarchs must remain fathers and patriarchs; and can never either ripen or degenerate into kings, as coming from a very different stock: that these latter arose from compact, and were the creatures of the people: that the will of God, discoverable by natural reason, gave the immediate right to FATHERS; and that the will of man, discoverable by human actions, gave the immediate right to KINGS: that both, indeed, are the *ordinance of God*, as all things are which have a natural tendency to better and improve humanity. But, to infer from thence, that the rights annexed to one *ordinance of God* belong to another of his ordinances

(though of quite a different nature and original), is illogical and inconclusive. Nay even supposing that *paternity* and *monarchy* were both the *ordinance of God* in the same and supreme sense of an ordinance, immediately and extraordinarily revealed from God, it would by no means follow, that the offices of *father* and of *king* were the same; nor consequently the administration of those offices. The English monarch, by the selfsame *ordinance*, commissions a chief-justice and a captain-general. Has the chief-justice therefore a right to preside in a court-martial, or the captain-general, in the king's bench? With just as much reason as the supreme magistrate directs and orders the religion of *God's creatures*, amongst his subjects, because a father of a family directs and orders the religion of *God's creatures*, amongst his children. As in God's house in heaven there are many mansions for those who deserve them; so in God's household here on earth there are many offices for those who are capable of discharging them; in which, each has his distinct, and not one common business, though the end of all be the same, the benefit of mankind. But to suppose this end may be best obtained by each society's aiming at all the good they are, by any means, capable of promoting, is so idle a fancy, that it would be the ready way to do no good at all. Since each society would clash with another, and all of them remain unfit for what they undertake.

P. 65. [F]. In the quarrel between Boniface the VIIIth and Philip the Fair of France, concerning the bounds of civil and ecclesiastical jurisdiction, the Pope roundly affirms, that to deny the *temporal* to be subject to the *spiritual*, is falling into the Manichean heresy, or the admission of its *two principles*. But his

holiness might trust to his logic at a time when the learning of the whole body of the French nobility was in so deplorable a state, that the College of Cardinals, writing to them on this occasion in Latin, advises them (with a true Irish kindness) to get some honest man to translate the letter, for them, into French.

P. 72. [G]. Archbishop Laud may be called the father of this sect: and though he made a notable use of the King's supremacy to carry on his schemes, yet that he held the supremacy to be no better than an usurpation, appears pretty plainly from these words of his DIARY, where speaking of his having procured the Lord High Treasurer's Staff for Juxton, Bishop of London, he goes on thus—No *churchman had it since Hen. VII. time. I pray God bless him, to carry it so that the Church may have honour, and the king and the state service and contentment by it. And now* IF THE CHURCH WILL NOT HOLD UP THEMSELVES UNDER GOD *I can do no more.*—A remarkable passage in Sir Philip Warwick, who wrote altogether in favour of Laud and his party, will justify the interpretation I have put on these words of the diary.—"He [Laud] was a great "assertor of church-authority, instituted by Christ "and his Apostles and as primitively practised; (which "notwithstanding he really and freely acknowledged "subject unto the secular authority:) therefore he "carefully endeavoured to preserve the jurisdiction "*which the church anciently exercised, before the* "*secular authority owned her.* At least so much "thereof as the law of this our realm had applied to "our circumstances; which our common lawyers "dayly struck at." Memoires, p. 79.

P. 72. [H]. The SARACEN CALIFES, from sovereign princes, became, as their *empire decayed*, only sovereign pontiffs. The ROMAN POPES, from sovereign pontiffs, became, as their *religion degenerated*, sovereign princes. The reason of this contrary route was this. Christianity, as it degenerated, partook more and more of the spirit of Mahometanism: but Mahometanism never admitted of the spirit of Christianity; which separates the two characters of PRINCE and PRIEST; assigns to each his distinct province; and gives to each his lawful due.

P. 73. [I]. Hobbes is commonly supposed to be an enemy to all religion, especially the *Christian*. But it is observable, that in his attacks upon it (if at least he intended his chapter of the *Christian Commonwealth* in the LEVIATHAN, for an attack) he has taken direct contrary measures from those of Bayle, Collins, Tyndal, Bolingbroke, and all the other writers against *Revelation*. They endeavoured to shew the GOSPEL-SYSTEM as *unreasonable* as their extreme malice could make it; he as *reasonable* as his admirable wit could represent it. The schemes of CHURCH DISCIPLINE likewise, which they and he severally recommended, were by an odd fatality as different as their representations of the DOCTRINE; but in the reverse as to their qualities. They, all of them contended for the most unbounded *toleration*. He, for the most rigorous *conformity*. He seems, indeed, to have formed his plan of *ecclesiastical government* before he turned his thoughts to the *Christian doctrine*: and therefore as his politics had inforced an absolute submission to the Civil Magistrate in spirituals, he contrived, in order

to

to make it go down the better, to make the object of this submission as reasonable as possible. Whereas the others, beginning with the *Christian doctrine*, which they aimed to render as absurd as possible, very equitably contrived to make it sit easy on their followers, by a licentious kind of toleration destructive of all *Church Discipline*.

End of NOTES to Book I.

THE

# ALLIANCE

BETWEEN

# CHURCH AND STATE.

## BOOK II.

### OF AN ESTABLISHED CHURCH.

### CHAP. I.

OF THE NATURE OF THAT UNION BETWEEN CHURCH AND STATE, WHICH PRODUCES A RELIGION ESTABLISHED BY LAW.

HAVING now dispatched the first part of this enquiry, and shewn,

I. The Origin of Civil Society; the natural deficiency of its plan; and how the influence of religion only can supply that defect:

II. How all natural and moral good, and consequently *this* of Religion to the State, may be improved by human art and contrivance; together with the necessity there is of *seeking* this improvement: And,

III. As the *finding* it depends on an exact knowledge of a civil and of a Religious Society, their *distinct* natures and ends have been shewn and explained:

We

We are at length enabled to discover how this improvement is to be brought about.

For having, by a diligent enquiry, found,

I. First, *That the care of Civil Society extends only to the Body and its concerns; and the care of Religious Society only to the Soul;* it necessarily follows, that the civil magistrate, if he will improve this natural influence of Religion by human art and contrivance, must seek some UNION or ALLIANCE with the Church. For his office not extending to the care of souls, he hath not, in himself, power to inforce the influence of religion: and the church's province not extending to the body, and consequently being without coercive power, she has not, in herself alone, a power of applying that influence to civil purposes. The conclusion is, that their joint powers must co-operate, to apply and inforce the influence of religion, in such a manner as may best serve the true interests both of church and state. But they can never act conjointly but in *union* and *alliance* *.

II. Secondly, Having found, that *each society is sovereign, and independent on the other*, it as necessarily follows, that such union can be produced *only*

* Ambas potestates, ecclesiasticam et civilem, ita esse divino numine constitutas, ut in suo genere & ordine unaquæque sub uno Deo proxime collocata prima ac suprema fit: collatæ vero invicem, sociæ fœderatæque sunt—ergo ambæ potestates supremæ ac principes in suo ordine, conjunctæque & amicæ, non una alteri per sese subdita, subordinataque est—satis enim claruit duas quidem potestates esse oportere, ecclesiasticam & civilem, quæ principales ac supremæ, & tamen sociæ, conjunctæ & amicæ, ne societas humana distrahatur. Mutuam sibi operam debent, præstantque, & sese mutuo non tantum adjuvant, verum etiam tempe[illegible]
Bossuet, l. v. c. 31, 32, & 33. F. T.

by FREE CONVENTION AND MUTUAL COMPACT: because whatever is *sovereign* and *independent* can be brought to no act without its own consent: but nothing can give birth to *a free convention*, but a sense of mutual wants which may be supplied, or a view of mutual benefits which may be gained, by it. *Such*, then, is the nature of that UNION which produceth a CHURCH BY LAW ESTABLISHED; and which is indeed no other than a *politic league and alliance for mutual support and defence*. For the state not having *the care of souls*, cannot, of itself, inforce the influence of religion; and therefore seeks *aid of the church:* and the church having *no coercive power* (the consequence of its care not extending to bodies) as naturally flies *for protection to the state* *. This being of the nature of that alliance which Grotius calls, FŒDUS INÆQUALE. "Inæquale "fœdus *(says he)* hic intelligo quod ex ipsa vi pac- "tionis *manentem prælationem* quandam alteri donat: "Hoc est ubi quis tenetur alterius imperium ac majes- "tatem conservare UT POTENTIORI PLUS HONORIS, "INFERIORI PLUS AUXILII DEFERATUR †."

From whence it is seen, that, were those common notions true, which we have been at so much pains to confute, concerning the nature of a *church* and *state*, there could be neither *room* nor *motive* for this *alliance*. Were they not *independent on each other*, there could be no ROOM; because *freedom of will*, the very essence of this alliance, would be wanting on one part;

* Hæc extant præclara Arnulfi Lexovensis Episcopi verba, "Dignitas ecclesiastica regiam provehit potius quam adimit dig- "nitatem, et regalis dignitas ecclesiasticam conservare potius "consuevit quam tollere libertatem. Equidem quasi quibusdam "sibi invicem complexibus dignitas ecclesiastica & regalis con- "current; cum nec reges salutem sine ecclesia, nec ecclesia pacem "sine protectione regia consequatur." Marca, l. ii. c. 12. F. T.

† De Jure Belli & Pac. Lib. i. cap. iii. § 21.

and

and had the *state the care of souls, or the church the care of bodies*, there could be no mutual MOTIVE; for, in the first case, the state, by its own authority, might apply religion to civil purposes: in the latter, the church, having, in consequence of the care of bodies, an inherent coercive power, might, by its authority, provide for its own security.

An ALLIANCE then, by *free convention*, being in its nature *such* that each party must have its motives for contracting; our next enquiry will be, first,

I. What those motives were, which the state had for *seeking*, and the church for *accepting*, the offers of an *Union*. And, secondly,

II. What were the mutual benefits and advantages arising therefrom.

By the *first* part of which enquiry, we hope to make it appear, THAT THIS ALLIANCE WAS INDISPENSABLY NECESSARY FOR SECURING THE WELL-BEING AND HAPPINESS OF CIVIL SOCIETY: And by the *second*, THAT NO COMMON RIGHT OF MAN, CIVIL OR RELIGIOUS, IS IMPEACHED BY IT. To demonstrate *which* is one of the principal ends of this discourse.

## CHAP. II.

### OF THE MOTIVES THE STATE HAD TO SEEK, AND THE CHURCH TO ACCEPT, AN ALLIANCE.

THE motives the magistrate had to *seek* this Alliance were these:

I. To preserve the essence and purity of Religion.

II. To improve its usefulness, and apply its influence in the best manner.

III. To

III. To prevent the mischief which, in its natural independent state, it might occasion to civil society.

I.

I. The Magistrate was induced to seek it,

1. *As the necessary means of preserving the very* BEING *of Religion.* For though, as hath been shewn, Religion constitutes a Society; and that this society will indeed, for some time, support Religion, which, without it, would soon vanish from amongst men: yet, if we consider, that this society is made up of the same individuals which compose the civil; and destitute likewise of all coercive power; we must needs see, that a society, thus abandoned to its own fortune, without support or protection, would, in no long time, be swallowed up and lost. Nor can we reasonably hope that this danger might be averted, by that inherent power, we have shewn, to be in the state of restraining the oppugners of the *three fundamental principles of natural religion*; because that power could only prevent these principles from being directly depraved or subverted; not from gradually decaying and falling into oblivion. Of this opinion was an able writer, whose knowledge of human nature will not be disputed: "Were it not, says he, for that sense of virtue which "is principally preserved, so far as it is preserved, "by NATIONAL FORMS AND HABITS of Religion, "men would *soon lose it all*, run wild, prey upon one "another, and do what else the worst of savages do*."

2. But of whatever use an alliance may be thought, for preserving the *being* of religion; the necessity of it, for preserving its PURITY, is very evident. For if TRUTH and PUBLIC UTILITY coincide, the nearer any

* Wollaston's Religion of Nature Delineated, p. 124.

religion

religion approaches to the truth of things, the fitter that religion is for the service of the state. That they do coincide, that is, that truth is productive of utility, and utility indicative of truth, may be thus proved. That truth is *productive* of utility, appears from the nature of the thing. Observing truth, is acting as things really are: He who acts as things really are, must gain his end; all disappointment proceeding from acting as things are not; just as in reasoning from true or false principles, the conclusion which follows must be, as the principles, necessarily right or wrong. But gaining the end of acting is utility or happiness; disappointment of the end, hurt or misery. If then truth *produce* utility, the other part of the proposition, that utility *indicates* truth, follows of course. For not to follow, supposes two different kinds of general utility relative to the same creature, one proceeding from truth, the other from falsehood; which is impossible; because the natures of those utilities must then be different; that is, one of them must, and, at the same time, must not, be utility. Wherever then we find UNIVERSAL UTILITY, we may certainly know it for the PRODUCT OF TRUTH, which truth it indicates. Let us then consider the danger which religion runs, of deviating from truth, when left, in its natural state, to itself. In these circumstances, the men of highest credit are such as are famed for greatest sanctity. This sanctity hath been generally understood to be then most perfect when most estranged from the world, and all its habitudes and relations. But this being only to be acquired by secession and retirement from human affairs; and that secession rendering man ignorant of civil society, of its rights and interests; in place of which will succeed, according to his natural temper, the destructive follies either

of

of superstition or fanaticism; we must needs conclude that Religion, under such directors and reformers (and God knows these are too commonly its lot) will deviate from truth; and consequently from a capacity, in proportion, of serving Civil Society. I wish I could say, we had not fact to support this speculation. The truth is, we have seen, and yet do see, Religious Societies, some grown up, and continuing unsupported by, and *ununited* with the state; others that, when supported and *united*, have by strange arts brought the state into subjection, and become its tyrants and usurpers; and thereby defeated all the good that can arise from this alliance; such societies, I say, we have seen, whose religious doctrines are so little serviceable to civil government, that they can prosper only on the ruin and destruction of it. Such are those which teach the sanctity *of celibacy* and *asceticism*; the *sinfulness of defensive war*, of *capital punishments*, and even of *civil magistracy* itself.

On the other hand, when religion is in ALLIANCE with the state, as it then comes under the magistrate's direction, those holy leaders having neither credit nor power to do mischief, its purity must needs be reasonably well supported and preserved *. For, truth and public utility coinciding, the civil magistrate, as such, will see it for his interest to seek after, and promote TRUTH in religion: and, by means of public UTILITY, which his office enables him so well to understand, he will never be at a loss to know where such truth is to be found. So that it is impossible, under this civil influence, for religion ever to deviate far from truth; always supposing (for on such supposition this whole

* Imminuta esset libertas ecclesiæ, si a principum secularium imperio libera, ab episcopis iniqua servitute premeretur. Marca, l. iii. c. 1. F. T.

theory

theory proceeds) a LEGITIMATE government, or civil policy established on the principles of the natural rights and liberties of mankind. For an unequal and unjust government, which seeks its own, not public utility, will always have occasion for error; and so must corrupt religion both in principle and practice, to serve its own wrong interests *.

II. Secondly, the magistrate was induced to seek this alliance *as the necessary means of improving the usefulness*; *and of applying the influence of religion to its service.* And this an alliance doth by several ways.

1. *By bestowing additional reverence and veneration on the person of the civil* MAGISTRATE, *and on the* LAWS *of the state.* For in this alliance, where the religious society is taken under the protection of the state, the supreme magistrate, as will be shewn hereafter, is acknowledged HEAD *of the religion.* Now nothing can be imagined of greater efficacy for securing the obedience of the people. Those two consummate masters in politics, *Aristotle* and *Machiavel* †, thought it of so great, as to be sufficient to gain reverence and security to a tyrant. What then must we suppose its efficacy on a legitimate magistrate ‡? The same veneration will extend itself over the *laws* likewise. For while some of them are em-

* See note [A] at the end of this Book.

† Ἔτι δὲ τὰ πρὸς τὰς θείας φαίνεσθαι ἀεὶ σπουδάζοντα διαφερόντως, ἥτλόν τε γὰρ φοβεῖσθαι τὸ παθεῖν τι παρὰ νόμον ὑπὸ τῶν τοιούτων, ἐὰν δεισιδαίμονα νομίζωσιν εἶναι τὸν ἄρχοντα καὶ φροντίζειν τῶν θεῶν. Καὶ ἐπιβουλεύουσιν ἧττον, ὡς συμμάχους ἔχοντι καὶ τοὺς θεούς. Polit. lib. v. c. 12.—Et non à cosa più necessaria à parere d'havere, che questa ultima qualità [religione] perche gli huomini in universale giudicano più à gli occhi che alle mani, perché tocca à vedere à ciascuno à sentire à pochi. Del. Principe, cap. xviii.

‡ Cives in officio suo erga se & erga principem religionis cultu, veluti vinculo quodam, adstringuntur, ut de Romanis observavit Augustinus. Marca, l. ii. c. 10. F. T.

ployed

ployed by the state for the *support of the church*; and others *lent* to the church to be employed in the *service of the state*, and all of them enacted by a *legislature in which church-men have* a considerable *share*; all these things, as we shall see presently, being amongst the conditions of *alliance*; *laws*, under such direction, must needs be obeyed with the greatest reverence.

2. *By lending to the church a coactive power.* It may be remembered that, in speaking of the innate defects in the plan of civil society, we observed, that there were several sorts of duties which civil laws could not inforce: such as the duties of IMPERFECT OBLIGATION; which, a religious society, when endowed with *coactive power* to invigorate the influence of religion, is capable of exacting; and SUCH likewise of the duties of PERFECT OBLIGATION, whose breach is owing to the intemperance of the sensual appetites. The severe prohibition of which threatens greater and more enormous evils. For while these unruly passions overflow, the stopping them in one place is causing them to break out with greater violence and disorder in another. As the rigorous punishment of fornication hath been generally seen to give birth to unnatural lusts. The effectual correction therefore of such evils must be begun by moderating and subduing the passions themselves. But *this*, civil laws are not understood to prescribe; as *punishing* those passions, only when they have risen into *act:* and not *rewarding* the attempts to subdue their first irregular motions. It must be a tribunal regarding bad intentions as criminal, which can moderate and regulate the passions. And this is no other than the tribunal of religion. When this is done, a coactive power of the civil kind may have a good effect; but not till then. And who so fit to apply this coactive power in such cases, as

that

that society which fitted and prepared the subject for its due reception and application *? Again, we have observed, that the state punishes deviations from the rule of right, as *crimes* only; and not as they are *such* deviations; nor as they are *sins:* and on that first idea proportions its punishments: by which means some very enormous deviations from the rule of right, which do not *immediately* affect society, and so not considered as *criminal*, are overlooked by the civil tribunal. Yet these being, *mediately*, pernicious to the state, it is for its interests that they should be brought before some capable tribunal. But besides the civil there is no other than the ecclesiastical endowed with coactive power. Hence may be inferred *the true and only end and use of* SPIRITUAL COURTS. A church-tribunal then, with coactive power, being necessary in all these cases; and a religious society having, in itself, no such power, it must be borrowed from the state: but a state, as we shall see, cannot lend it, without danger, *but* on the terms of an alliance: a state therefore will be induced to seek this alliance, in order to improve the natural efficacy of religion.

3. *By conferring on the state the* application *of this efficacy of religion; and by putting it under the magistrate's direction.* There are peculiar junctures when the influence of religion is more than ordinary serviceable to the state; and these the civil magistrate best knows. Now while a church is in its natural state of independency, it is not in his power to improve those conjunctures to the advantage of the state, by a timely application of religion; but when the *alliance* is made, and consequently the church under his direction, he hath then authority to prescribe such public

* See note [B] at the end of this Book.

exercises

exercises of religion, in such manner, and at such seasons, as he finds the exigencies of state require *.

4. *By engaging the church to apply its utmost endeavours in the service of the state.* For an *alliance* laying an obligation on the state to protect and defend the church, and to provide a settled maintenance for its ministers, such benefits must needs produce the highest attachment to the benefactor; which will be shewn from motives both of gratitude and interest, in the most zealous labours for the service of civil government †.

III. *Lastly, the magistrate was induced to seek this alliance as the only means of preventing the mischiefs that the church, in its natural independent condition, might occasion to civil society.* 1. For, in this situation, the church having, of itself, a power of assembling for religious worship, *factious men* may conveniently, under that cover, hatch and carry on designs against the peace of society; and the influence which popular and leading men gain over the consciences of such assemblies, by the frequency of public harangues, may easily ripen these contrivances into act; when strengthened with the specious pretext of religion. That unhappy prince, Charles I. when he was now become better instructed by misfortunes, and able enough to understand, that the interest of his country and his own were the same, delivers himself in these words: "Touching the government of the church by "bishops, the common jealousie hath been, that I am

* See the scandalous squabbles between the civil magistrate and the church, concerning the exercise of this power, in the histories of the *presbyterian* church of *Scotland.*

† Carolus Magnus, præter causas pietatis, motus etiam fuit ad distribuenda liberali manu bona ecclesiis ob utilitatem reipublicæ, existimans nimirum episcopos sanctius observaturos fidem promissam. Marca, l. viii. c. 19. F. T.

"earnest

" earnest and resolute to maintaine it, not so much " out of piety, as policy, and reason of state. Where- " in so far indeed reason of state doth induce me to " approve that government above any other, as I find " it impossible for a prince to preserve the state in " quiet, unless he hath such an influence upon church- " men; and they such a dependence on him, as may " best restraine the seditious exorbitancies of minis- " ters' tongues; who with the keys of heaven, have so " far the keys of the people's hearts, as they prevail " much by their oratory to let in, or shut out, both " peace and loyalty *." Now all these evils are speedily remedied by this *alliance*. For now the civil magistrate being become protector of the church, and, consequently, supreme head and director of it, the ministry is much in his power; that mutual dependency between the clergy and people, so pernicious to the state, being, by means of a settled revenue, broken and destroyed. He admits and excludes to the *exercise* of their function as he sees fit; and grants it to none but such as give a previous security for their allegiance to the state. By which means, all that power and influence, which the ministers and leaders in a church had over it before the alliance, *as the protectors of religion*, is now drawn off from them, and placed, more properly, in the civil magistrate †.

The view of these mischiefs, from a church in its natural state of independency, so terrified *Hobbes* and his followers, that they denied there ever was such a

* ΕΙΚΩΝ ΒΑΣΙΛΙΚΗ, chap. xvii.

† Ex hoc tuitionis & patrocinii jure quod reges exercent, illud commodi in ecclesiam totamque rempublicam Christianam redundat, ut ecclesiastica & civilis potestas amico & perpetuo fœdere invicem conjunctæ mutuis auxiliis ad comprimendos improborum conatus & juvanda bonorum studia inter se conspirent. Marca, l. ii. c. 12. F. T.

state; for that the magistrate had a *natural right* of dominion and supremacy over the church, as his servant and creature: which was arguing just as reasonably as that community would act, who, alarmed at the growing power of a neighbour, from which a likely mischief might be suspected, should endeavour, on a principle of right, to bring that people which gave them umbrage under vassalage. Whereas reason and justice both point out a different remedy, which is to obviate the mischief by *league* and *alliance*. The same should be done in the affair before us: and were not men unreasonably prejudiced against a *church*, they would see the cases to be exactly alike. Indeed when there is, during the independency of two different societies composed of one and the same people, a natural and direct tendency, in the LEGITIMATE exercise of *one* dominion, to the damage of the *other*, then the *law of nations* prescribes the less to be dependent on the greater. But as religious society hath been shewn to have nothing in the *legitimate* exercise of its sovereignty that can clash with civil power, though it be, indeed, so liable to be *abused** as to make it of infinite interest to the state to prevent the abuse, we conclude, that its dependency on the state, the only means of preventing the evil, can be brought about no otherwise than by an *alliance* between the two societies, on the footing of a *free convention*.

But secondly, as a *Hobbeian claim* would be unjust in itself, so would the *prosecution* of it be mischievous to civil liberty. To exchange that temperate, conditional subordination of the clergy, here laid down, for the slavish dependency which *Hobbes* and his followers prescribe, would prove a very ill bargain for the state. An entire independency of the clergy,

* See note [C] at the end of this Book.

might

might in time, indeed, overturn a free government; but so, more certainly, would a slavish dependence. The noble author of *The Account of Denmark*, saw clearly the destructive consequences of *both these conditions*, where, in the conclusion of his book, he delivers himself in these words: "It hath been a great "mistake amongst us that the *Popish* religion is the "only one of all the *Christian* sects proper to introduce and establish slavery in a nation; insomuch "that popery and slavery have been thought inseparable.—I shall make bold to say, that other religions have succeeded as effectually in this design as "ever *Popery* did.—For in *Denmark*, as well as "other protestant countries in the north, *through the* "*entire dependence of the clergy upon the prince*, "through their principles and doctrine, which are "those of unlimited obedience, through the authority "they have with the common people, *&c.* slavery "seems to be more absolutely established than it is in "*France.*" If then, in the opinion of this famed politician, an *absolute independence* and an *absolute dependence* are equally pernicious to society, what remains, but to confess that the clergy's condition in *alliance*, which takes off their independency, and makes them the *free subjects*, but not the *tools* of civil power, is that very circumstance in which only they can be useful to society, in the manner they were destined by God and nature. What obligations, therefore, lye on every lover of his country to protect from *innovations* our present happy constitution, which hath actually placed the clergy in this very condition; from which the churches of the *north* and *south* have so fatally deviated, though into contrary extremes!

2. Another mischief there is in this *unallied* condition of the church, still more certain and fatal,

whenever more than one religion is found in a state. For, in these latter ages, every sect, thinking itself alone the *true* church, or, at least, the most *perfect*, is naturally pushed on to advance its own scheme upon the ruins of the rest; and where argument fails, *civil power* is made to come in; as soon as ever a party can be formed in the *public administration:* and we find they have been but too successful in persuading the magistrate that his interests are much concerned in these religious differences. Now the most effectual remedy to those dangerous and strong convulsions, into which states are so frequently thrown by these struggles, is an *alliance*; which *establishes one church*, and gives a full *toleration to the rest* *; only keeping sectaries out of the *public administration*; from a heedless admission into which, these disorders have arisen.

Having now shewn the principal motives which induced the state to *seek* an ALLIANCE with the church:

## II.

We come next to consider the motives which the church had to *accept* it. For, this being, as we observed, a FREE CONVENTION; unless the church, as well as state, had its views of advantage, no *alliance* could have been formed. To discover these motives, we must recollect what hath been said of the nature and end of a *religious society*; for the benefits adapted to that nature and end, must be her legitimate motive: but if so, this benefit can be no other than SECURITY FROM ALL EXTERIOR VIOLENCE. The state indeed could not justly offer it, had an alliance never been made. But this is no reason why the church should not think it for her interest to secure

* See note [D] at the end of this Book.

her

her natural right by *compact*, any more than that one state should not bind another, in the same manner, not to do it violence, though *that other* were under prior obligations, by the law of nature and nations, to abstain.

But, by this alliance between the two societies, the state doth more; it not only promiseth not to injure the church confederated, but to serve it; that is, to protect it from the injuries of other religious societies, which then exist, or may afterwards arise in the state. How one religious society may be injuriously affected by another, we have shewn just before: how great these injuries may prove, will be shewn hereafter. It must needs then be the first care of a church, and a reasonable care, to preserve herself, by all lawful ways, from outward violence. A state then, as we have said, in order to induce the church's acceptance of this offer, must propose some benefit to her, by it; and because this is the only *legitimate* benefit the church can receive, it must propose *this*; which, therefore, being considerable, will be the church's *motive for alliance*.

There are only two other considerations which can be deemed *motives:* The one, *to engage the state to propagate the established religion by force:* and the other, *to bestow honours, riches, and powers upon it.* Now, on recurring to the nature and end of the two societies, the *first* motive will be found *unjust*; and the *second, impertinent.* It is *unjust* in the church to require the engagement; because the performing it would be violating the natural right every man hath of worshipping God according to his own conscience: It is *unjust* in the state to engage in it; because, as we have shewn, its jurisdiction extendeth not to opinions: it is *impertinent* in a church to aim

at riches, honours, powers; because these are things which, as a Religious Society, she can neither use, nor profit by. To imagine these fit accommodations for such a society, is as sensual a fancy as theirs who were for building sumptuous tabernacles for the three great messengers of God, at the Transfiguration. It is very true, that these things which, for the sake of the state, followed an alliance, might be in the private views of ambitious churchmen, when that alliance was projected; and might not a little help forward the completion of it. But what motives the *clergy* of a church might have, is nothing to the purpose of our enquiry; we are only to consider what the *church* had, which, as a Religious Society, consists of the whole body of the community, both laity and clergy*: and her motive, we say, could not be riches, honours, and power, because they have no natural tendency to promote the *ultimate* end of this society, *salvation of souls*; or the *immediate* end, *purity of worship*. We conclude therefore, that the only legitimate motive she could have, *was security and protection from outward violence*. This the Reader would do well to keep in mind, because much will be found to depend upon it, in the sequel of this discourse.

On these *mutual* inducements then, was formed this FREE ALLIANCE; which gave birth to a CHURCH BY LAW ESTABLISHED: and these being so prevalent, we are not to wonder that the civil communities of all ages had an ESTABLISHED RELIGION, which

* —Longe a proposito aberrant, qui ecclesiam clero coercent. Latior est illius significatio quæ Laïcos ipsumque regem comprehendit.—Ecclesiæ corpus quod ex fidelium omnium compage constituitur, in duas præcipuas personas, sacerdotalem scilicet et regiam, divisum est. Marca, l. ii. c. 1. F. T.

was

was under the more immediate protection of the civil magistrate; and so, distinguished from those that were only TOLERATED. How closely these two interests were united in the *Egyptian* policy, which afterwards became the model of civil wisdom to the rest of mankind, is notorious to all who are the least acquainted with antiquity. Nor were the polite republics of *Rome* and *Athens* less solicitous for the common interests of the two societies than that sage and powerful monarchy, the nurse of arts and virtue. But an *Established Worship*, as we say, is the universal voice of nature, and not confined to certain ages, people, or religions. That great voyager, and sensible observer of the various manners of men, *John Baptist Tavernier*, speaking of the kingdom of *Tunquin*, says, " I come now to the political description " of this kingdom, under which I comprehend the Re- " ligion, which is almost *every where in concert with* " *the civil government for the mutual support of* " *each other**." It is true, there are exceptions to this, as there are to all the general practices of mankind. *Ovington* tells us, p. 278, that, amongst the Bannians of India, this *alliance* is not between religion and the state, but BETWEEN RELIGION AND TRADE; every profession differing from another as much in its modes of worship, as in its ways of traffic. The enemies of our alliance may perhaps improve upon this hint; for as unwilling as they seem to be, that the *church* should profit by an *alliance* with the state, they would not, I suppose, be averse to *trade's*

* Je viens à la description politique de ce royaume, dans laquelle je comprens la religion, qui est *presque en tous lieux de concert avec le gouvernement civil pour l'appuy reciproque de l'un & de l'autre.* Relation Nouvelle de la Royaume de Tunquin, cap. x. à la fin.

profiting by an *alliance* with the church.—Now, if the foregoing account may explain the true origin of this general practice, *the practice*, we presume, will corroborate what hath been said of the force of the *motives* here delivered; the wisest and most experienced lawgivers, as we see, concurring to act upon them.

But when I say that *all* regular policied states had *an established religion*, I mean no more than he would do, who, deducing civil society from its true original, should, in order to persuade men of the benefits it produces, affirm, that all nations had a civil policy. For as this writer could not be supposed to mean, that every one instituted a free state, on the principles of public liberty; which yet was the only society he purposed to prove was founded on truth, and productive of public good; because it is notorious, that the far greater part of civil policies are founded on different principles, or abused to different ends; so neither would I be understood to mean, when I say all nations concurred in making this *alliance*, that they all exactly discriminated the natures, and fairly adjusted the rights of the two societies, on the principles here laid down; though an *establishment* resulting from this discrimination and adjustment be the only one I would be supposed to recommend. On the contrary, I know this union has been generally made on mistaken principles; or, if not so, hath degenerated by length of time; whence it hath come to pass, that the national religion in the Pagan World hath been most commonly a slave to the state; and in the Christian, the state sometimes a slave to the church. And, as it was sufficient for that writer's purpose, that those societies, good or bad, proved the sense all men had of the benefits resulting from civil policy in general, though they were oft mistaken

in the means; so it is for ours, that this universal concurrence in the two societies to *unite*, shews the sense mankind had of the usefulness of such an *union*. And lastly, as that writer's speculative principles are not the less true on account of the general deviation from them in the actual forming of civil societies; so may not these plain principles of *alliance*, though so few states have suffered themselves to be directed by them in practice; nor any one before, that I know of, delivered them in speculation: especially if, as in that case, so in *this*, we can derive such *mistake* and *degeneracy* from their causes. It would draw me too far out of my way to explain distinctly the causes of the *mistake*; and the intelligent reader, who carefully attends to the whole of this discourse, will not be at a loss to discover the most considerable of them; some of which I have already hinted at; and others, I may possibly, in the sequel, take occasion to mention. As for the *degeneracy*, it hath been observed, that the *alliance* is of the nature of the FŒDERA INÆQUALIA: Now, the common effect of such, Grotius informs us of, in these words: *Interim verum est accidere plerumque, ut qui superior est in fœdere,* SI IS POTENTIA MULTUM ANTECELLAT, PAULATIM IMPERIUM PROPRIE DICTUM USURPET: PRÆSERTIM SI FŒDUS PERPETUUM SIT *.

## CHAP. III.

### OF THE RECIPROCAL TERMS AND CONDITIONS OF THIS ALLIANCE.

AS, from the natures of the two societies, we discovered what kind of union only they could enter into;

* De Jure Belli & Pacis, lib. i. cap. iii. § 21.

so from their natures, together with the *motives* they had in uniting, may be deduced, by necessary consequence, the reciprocal TERMS and CONDITIONS of this union.

From the mutual motives inducing thereunto, it appears, that the great *preliminary and fundamental article* of ALLIANCE is this, THAT THE CHURCH SHALL APPLY ITS UTMOST INFLUENCE IN THE SERVICE OF THE STATE; AND THE STATE SHALL SUPPORT AND PROTECT THE CHURCH.

1. But, to enable the two parties to perform this agreement, there must needs be a MUTUAL COMMUNICATION OF THEIR RESPECTIVE POWERS. For the province of each society being naturally distinct and different, each can have to do in the other's, only by mutual concession*.

2. But again, these societies being likewise as naturally independent one on the other, a mutual concession cannot be safely made, unless one of them give up its INDEPENDENCY to the other. From whence arises what Grotius, we see, calls MANENS PRÆLATIO; which, in his *Fœdus inæquale*, the more powerful society hath over the less, by the cession of its INDEPENDENCY.

Now from the two conclusions, which necessarily spring from *this fundamental article of union*, we de-

* Hæ ambæ potestates inter se ut duo apices comparantur. His sua in utraque substantia, terrena scilicet & cœlesti, assignantur officia. Eæ ut principes suoque in ordine supremæ sociali tantum fœdere conjunguntur, non altera alteri in suis quidem rebus subditur: & quo jure regi permittitur, ut super animarum salute, sed ex canonum auctoritate, decernat; eodem jure permittitur pontifici, ut delinquentes etiam pœnis temporalibus, sed forensi lege, non innata sibi potestate, coerceat. Bossuet, l. vi. c. 29. F. T.

duce

duce all the terms, conditions, mutual grants, and concessions *, which complete this *alliance*.

For, from this obligation on the church *to apply its influence to the service of the state*, proceed a SETTLED MAINTENANCE FOR THE MINISTERS OF RELIGION, and an ECCLESIASTICAL JURISDICTION with coactive power; which things introduce again, on the other side, the DEPENDENCY OF THE CLERGY ON THE STATE. And from the state's obligation *to support and protect the church*, proceeds the ECCLESIASTICAL SUPREMACY OF THE CIVIL MAGISTRATE; which again introduceth, on the other hand, the right of CHURCHMEN TO A SHARE IN THE LEGISLATURE.

Thus are all these rights and privileges closely interwoven, and mutually connected by a necessary dependence on one another. We have here, in a succinct manner, deduced each of them in the order in which they reciprocally arise: but the importance of the subject requiring a more minute examination into the reason and foundation of each GRANT and PRIVILEGE, we shall go over them again in a different order; and put together all that belong to the CHURCH under one head; and all that belong to the STATE under another: the first order being the properest for a *general* view; the second for a *particular*; but both necessary, to give a true idea of that mutual connexion with, and necessary dependence on, one another.

* Christianæ politiæ antistites a summo jure recedebant, ut concordiæ litarent. Attamen cum remissio illa nisi certis limitibus concludatur, in abjectionis vitium desciscat, necessariæ sunt regulæ quædam, intra quas prudentia, quæ omnino in his negotiis adhiberi debet, se contineat. Porro regulæ illæ in eorum axiomatum cognitione constitutæ sunt, quæ communi utriusque reipublicæ suffragio sunt recepta; ex æquo & bono unitatis & concordiæ alendæ studio, ex utraque parte quamplurima remissa. Marca, in præfatione secunda. F. T.

Let us then examine,

I. What the Church RECEIVES from the State.

II. What the Church GIVES to it.

Which will present us with a *new view of the two societies as they appear under an establishment*; and leave nothing wanting to enable us to judge perfectly of their natures.

I.

I. What the Church *receives* from the State by this alliance, is,

I. First, A PUBLIC ENDOWMENT FOR ITS MINISTERS: a separate and certain share of the national property being assigned for the maintenance and support of the clergy; portioned out into distinct benefices; and collated to by the state. The reasons of this endowment are: 1. To render the religious society, whose assistance the state so much wants, more firm and stable. 2. To invite and encourage the clergy's best service to the state, in rendering those committed to their care, virtuous. But, 3, and principally, in order to destroy that mutual dependency, between the clergy and people, which arises from the minister's support by voluntary contribution; the only maintenance that could be claimed or given before the two societies were allied; which dependence, we have shewn to be productive of great mischiefs to the state. Add to all this, that as the clergy are then under the sovereign's direction, and consequently become a public order in the state, it is but fit and decent, that a public maintenance should be provided for them. Which most nations have done by way of TYTHES.

From this account of a public and fixed provision for the clergy, may be deduced these COROLLARIES.

1. *That*

1. *That though the payment of tythes to the Jewish priesthood should give the Christian Clergy no right to them, till bestowed by the sovereign, yet the example of this mode of provision, under the Mosaic Economy, may be fairly and properly urged by Christian ministers in favour of them as a proper civil donation.* Under the *Mosaic* economy, God *himself* made the union between church and state; as he had before planned the form of civil government. From his very choice of the *Hebrew* people we may collect, that his dispensation to them was as well relative to the rest of mankind as to themselves. Now as amongst the various ends which he had for erecting that society, we must conclude, *one* was to teach mankind, by his example in the HOREB CONTRACT, to form civil policies on the principles of natural right and public liberty; so we may be equally assured, that one of his ends *in uniting the two societies*, was to give them the same general lesson of *union* and *alliance:* If an union, in general, then consequently all those fundamental terms of union which arise (not from the peculiar nature of the Jewish church and state, but) from the common nature of a civil and a religious society united, must be intended likewise for our imitation. But a fixed maintenance in the Mosaic economy, for the priests, being one of those fundamental terms which depends not on the frame of that peculiar policy, but, of a church and state in general, we may fairly conclude, that the mode of it by *tythes*, as a mode in itself equitable, is not improper for our imitation. For though the establishment of this mode of provision in Judea confers no divine right, yet it strongly supports every *civil constitutional* appointment of them.

2. A Second Corollary is, *That it is* ABSURD *in any*

*any member of the established church to suspect, that a settled revenue may be injurious to the state, as making the clergy too powerful: and that it is* UNJUST *in any who are not of the established church to refuse payment of tythes, on pretence of their contributing to the maintenance of opinions different from their own.* The suspicion of churchmen is *absurd*; because it appears, from what we have but now observed, that this policy hath a very contrary effect; a settled maintenance destroying that mutual dependency between clergy and people, from whence only can arise the power of churchmen to do mischief. In the church of Rome, besides the endowed clergy, there are several orders of religious which possess nothing, but depend on the charity of the people. And yet, for many ages, these *wens* and *botches* of a corrupted church got all the power and influence of churchmen to themselves, from the endowed clergy, notwithstanding the immensity of their possessions. And the state throve accordingly.—The refusal of dissenters is *unjust*; because this maintenance is not assigned by the public for the *support of opinions*, but for *the use and service of the state*, as such. With as good reason, therefore, might they refuse to pay other taxes which, in their several applications, are for the same civil purpose. The difference is only accidental: *Church-officers* happen to have religious opinions; and *civil officers*, sometimes, have none*.

3. A Third Corollary is: *That as a fixed and public maintenance began with an established church, so it must end with it.* For the members of a church unestablished have no right, let their association, for that purpose, be as extensive as it will, to support their

* See note [E] at the end of this Book.

mines.

1. That

ministers by an appropriated endowment. All they can do for them is by voluntary contribution; a fixed maintenance being solely in the power of the state to bestow, both as it is a common tax, and as it requires a public sanction for its exaction: and the state could neither *wisely* nor *justly* affix a settled maintenance on the clergy of a church with which it was not in alliance. Not *wisely*, because the advantage in breaking the dependency between clergy and people, which the state gains by a fixed maintenance, would be greatly overbalanced by the inconvenience of giving so considerable a share of its property to a society independent of it. Not *justly*, because no contribution to a public maintenance could be lawfully demanded of those who are not members of an unestablished church so pretending. For in this case it would indeed be for *maintenance of opinions*, which they think erroneous; and to which no man can be obliged to contribute; as all men justly may, to that which, by *covenant and compact*, is expressly directed to promote the good of that civil policy of which they are members.

II. The second privilege the church *receives* from this alliance is, *a place for her superior members in the court of legislature*; which, with us, is THE BISHOPS' SEAT IN PARLIAMENT. For as it necessarily follows (as we shall see presently) from that *fundamental article of alliance* of *the State's supporting and protecting the Church*, that the church must, in return, *give up its independency to the state*, whereby the state becomes empowered to determine in all church matters, so far as relates to it as a society; as this, I say, necessarily follows, the church must needs have its *superior members in the court of legislature*, to prevent that power, which the state receives in return for the protection it affords,

affords, from being perverted to the church's injury: for the church's giving up its independency to the state, without reserving some share in the legislature, would be making itself, instead of a *subject*, a *slave*, to the state. Besides, without these ecclesiastics, no laws could be reasonably made in the court of legislature concerning the church; because no free man, or body, can be bound by laws to which they have not given their consent. So that as the church, when she entered into alliance, cannot *justly*, we must presume she did not *willingly* give up her independency, without the reservation of such a privilege. This shews the necessity of their sitting and acting in the legislature, in all affairs *ecclesiastical*. That they should act too, when they are there, like the other members, *in civil matters*, is very useful to the community: as giving additional sanction to its laws, when the people see that church and state have concurred in their enacting.

From this account of the grounds and original of this privilege, may be deduced the following COROLLARIES:

1. "That churchmen who sit in the higher house "of legislature in consequence of this *alliance*, are to "be considered first, not as REPRESENTATIVES in- "deed, but yet as GUARDIANS OF THE CHURCH: "the qualification for the exercise of this office being "their *baronies*. They are in the second place to be "considered as BARONS like the other members of "that house." For not to allow that bishops sit as guardians, would be to take away the most useful, and even the necessary end of their sitting, *which is, to watch over the interests of the church*. Besides, this office implies, that the church still continues a *distinct*, though an *allied* society; whereas to sit only as *barons* supposes the CHURCH not only *united* to, but incorporated

rated with, and *dissolved* in, the STATE, while lay fees alone are seen to give one and the same privilege both to the secular and spiritual lords.

2. "That yet, notwithstanding, these churchmen "(though they sit as *guardians* as well as *barons*) do "not, on the other hand, by virtue of this alliance, "constitute or compose any distinct or THIRD ESTATE "in parliament." For this would be attended with all the mischiefs of a contrary extreme, by putting the allied church again in possession of its *independency*, while it had a *negative* on the acts of the state. And this evil, which no management could prevent, so neither could time itself remedy: for the union, which is in its nature dissolvable, would by churchmen's sitting as a *third estate* become perpetual; every estate of legislature being essential to that government whereto it belongs. But whatever is essential can never be separated or taken away, without a change in the government itself.

These are the two extremes so hurtful both to religion and civil government, so destructive of that benefit which a rightly formed *alliance* is fitted to produce. Yet the common system hath joined these two discordant parts together; and made the bishops, at once, *guardian barons* and a *distinct estate*.

3. A Third corollary is, "That as the bishops' "right to sit in parliament began with the *alliance*, so "it must end likewise with it." It hath been shewn that the bishops sit there, *ne quid ecclesia detrimenti capiat:* For the church, by this alliance, having given up its *supremacy* to the state, which had now, whenever the grant should be abused, opportunities to do her injury, the principal churchmen are placed in a court of legislature, as watchmen to prevent the mis-

chief, and to give the church's sentiments concerning laws ecclesiastical. But when the *alliance* is broken, and the establishment dissolved, the church recovers back its supremacy, and from thenceforth the state losing the means of injuring, by having no longer a right of making laws for the exterior government of it, the church hath no longer a pretence of having *guardians* in the legislature: nor will the bishops' *baronies* remain, to keep them there; for these tenures will exist no longer than while the church continues *established*; it being part of that public maintenance which the state assigns to the clergy of a church in *alliance:* and which, on the dissolution of that union, reverts back again to the state. So neither the office nor title of *guardian-barons* remaining, bishops of the universal church have no further business in any particular civil court of legislature.

Having thus, in a summary way, considered the nature of that station which churchmen hold in parliament, as it is DE JURE, deducible from the principles of this theory, I shall now, the subject being both important and curious, consider it DE FACTO, under the several forms it assumed, as the CONSTITUTION kept improving and refining, till it arrived to that perfection, in which we hope long to enjoy it.

What I have to observe on the subject will be best digested in a resolution of these three questions.

I. Whether the bishops in parliament now make one of the ESTATES there?

II. Whether they be BARONS of parliament?

III. Whether they be PEERS of parliament?

I. As to the first question, it hath been held as a constitutional point, by many of great name, amongst which

which are Lord Chancellor Hyde, Bishop Stillingfleet, and Archbishop Wake, that the Bishops even now compose an *estate* in parliament. "Learned and unbiassed men (says the first of these eminent persons), who know the frame and constitution of the kingdom, know that the bishops are no less the representative body of the clergy than the House of Commons is of the people *." And again, speaking of the Bishops' expulsion from their house, he says, "They who loved the church, and were afraid of so great an alteration as the taking away *one of the three estates*, of which the parliament is compounded, were infinitely provoked †."——He who looks no further than into the present face of the constitution, will wonder how such a doctrine ever came to be received; since every circumstance relating to, and, at present, attendant on, the bishops' seat in parliament, manifests the falsehood of it. They have no *negative* voice, which is essential to an ESTATE: they have no *separate* house for consultation, which hath been long the established usage of an ESTATE: they are not in numbers sufficient, on the *feudal* system, to constitute an ESTATE.

If we would know from whence this venerable error hath arisen; for venerable it is both for the antiquity of it, and for the eminence of those who hold it; we must go up to the very cunabula of the English constitution.

As in the infancy of letters there was no accurate separation of science; so in the infancy of the *Northern Policy* there was no distinct separation of ESTATES.

* Hist. of the Rebellion, B. iv.

† Life of Edward earl of Clarendon, p. 101, 102, 8vo. edit.

Till the Norman Conquest, the BISHOP and the ALDERMAN sat together on the bench, in one common judicatory. *William* made a fit and proper separation of the magistracy, as the terms of an *alliance*, between the two societies, require. Which, had it not been for an accident of the times, the accumulating superstition and the rapacious spirit of usurpation in the church of Rome, would have been of great advantage to the community, by marking out and ascertaining the proper bounds and limits of each SOCIETY. For churchmen were very improper ministers of the crown, to judge in causes merely civil, both from the peculiar nature of their office, and the implied prohibition of their master; who himself disclaims all temporal jurisdiction. Besides, the practice of the BISHOP's sitting with the ALDERMAN rendered the original of the former's *coercive power*, there exercised in a coequality, very doubtful and uncertain. As the *Alderman*'s authority was seen to be from the *state*, men would be naturally misled to think that the *bishop*'s was from the *church*; at a time too, when churchmen allowed so little to the civil magistrate; whereas all *coercive power* being derived from the state, and to be exercised only for its use, it is of the highest moment not to have it misunderstood. From henceforward the CHURCH became, in a more just and proper sense than before, ONE OF THE THREE ESTATES OF THE REALM. But it was not till long after that they became, as properly, AN ESTATE IN PARLIAMENT.

For, though the bishops and prelates sat in Parliament as BARONS, and as GUARDIANS of the church, in spiritual matters, even from the Conquest, yet it was not till the twenty-third year of Edward I. that churchmen constituted an ESTATE IN PARLIAMENT. They and the *Commonalty* receiving this quality or condition

condition of estates together, from the mode of granting their aids in Parliament; which was by taxing themselves distinctly; and supporting themselves in this right (as appears from all the records) by the exertion of a *negative voice*; a privilege which constitutes, and is essential to *an estate in Parliament* *. And the way of summoning the clergy thither, as *an estate*, was by adding the *præmunientes* clause to the bishop's writ: in consequence of which, the whole body of the clergy appeared, partly in person, and partly by proxy; the bishops, prelates, and the *procuratores cleri*, composing this *estate*. But as their principal and almost only business was granting subsidies to the crown, it happened, as much on this account, as because the *three estates* sat all together in one place, that the exercise of their *negative*, otherwise than in ecclesiastical matters, is not so clearly delivered down to us. For, till the latter end of Edward III. the estates of Parliament sat together in one house. Till then, they debated in common and granted apart: as now, they sit apart and grant in common.

But against this account of the FIRST ESTATE, it may be objected, "That even while the clergy gave separate aids in Parliament, the lower clergy, at times, were not summoned." I answer, that this makes nothing against their quality of an *estate*; for in those irregular seasons of the constitution, the Commons

* When the *Estates General* of France, a body most resembling our *Parliaments*, had received its most perfect form and stability under John II., his famous declaration concerning its nature and rights (which some have compared to the *Magna Charta* of his namesake, King of England) begins with an inviolable law, that nothing proposed there should be held of validity that had not the concurrence of three orders, of the *Clergy*, *Nobles*, and *Commons*, and that the concurrence of any two only should not bind the third, which had refused its consent.

themselves were sometimes neglected, as in the nineteenth year of Edward III.

It may be further objected, that, "according to this system, the SECOND ESTATE, consisting of the temporal peers, should have taxed themselves, separately from the THIRD, consisting of the *Commons*; in the manner of the FIRST." This is true. And in fact they sometimes did thus tax themselves: though sometimes they did not: and there was sufficient reason for both these practices. The PROPERTY of the kingdom might be considered in two lights, as separated either by their different TENURES; or by their supposed different ORIGINALS. When considered in the first light, the *tenures* of the Lords and Commons were so very unlike, that it was no wonder they should (as they sometimes did) grant their subsidies separately and distinct from one another. But when PROPERTY was considered according to its supposed *original*, one part founded in *human* right, and the other in *divine*, it then divided itself into *lay property* and *clerical*; and the property of the Lay Lords and the Commons fell into one of the divisions. Hence they found it reasonable to tax themselves together. But, as was essential to *estates*, the Lords and Commons had a negative on one another, in the common proposal.

Thus was this change in the constitution (by the ADDITION of a *clerical estate in parliament*) silently and insensibly introduced. It returned as silently and insensibly to its former model, by a gradual and unperceived EXCLUSION of this *estate*. For the clergy, in that corrupt season of religion, ever aiming at an independency on the civil magistrate, began, in good time, to break in upon this *new establishment*; first by contriving, for the sake of pretended *regularity*, to have

have their grants in Parliament CONFIRMED in their SYNODS. This was easily indulged them, being considered only as a matter of form. When they had so soon gained their point, it was not long ere they grew scrupulous and uneasy about GRANTING at all in *Parliament*; and contended warmly for having this business carried, in the first instance, into their *Synods*. But this was a more serious matter. Our kings did not care to trust churchmen out of their sight; and the wisest of themselves began to foresee how it might affect their new quality of an *estate* in parliament. So this pretension, for a time, was coolly pushed. But the frequent and urgent necessities of the crown (of which they never failed to make their advantage) encouraged them, at such junctures, to urge this last demand with fresh vigour: and the monarch, in such straits, was more intent to get their subsidies, than to watch over their encroachments: so that this, likewise, was occasionally suffered; as in easier times, it was occasionally denied. However, the clergy having been so far successful in their aims, as *always to confirm*, and *sometimes to give*, their subsidies in synod, the crown found it necessary that these *church-assemblies* should be ever at hand to attend *parliament*, lest scruple or pretence should afford this *first estate* a handle to retard the public supplies: and therefore at the same time that the Parliament-writs were issued, a writ of summons was now directed to the clergy, to assemble in synod, under the new name of a CONVOCATION, as they now treated of *civil* matters; to distinguish it from a *provincial synod*, which treated only of *spiritual*. And to manifest more clearly the change in the nature of these ecclesiastical assemblies, from the time of Edward II. provincial Parliamentary writs were issued to the two archbishops, or in a vacancy to

the prior and chapter, requiring them to send their mandates to the clergy of the province, to summon them to Convocation, *to assist in the difficult and urgent necessities of the church and* REALM. On which account, doubtless, it was, that in after-times these *Convocations* were thought to be irregular if assembled out of Parliament-time: and the opinion appears to be founded. But the clergy were able fencers. They knew as well how to take advantage of an adversary (for such they almost always esteemed the CIVIL POWER) when he was on, as when he was off his guard. The *Convocation* now constantly sitting in Parliament-time, it gave them a pretence more obstinately than before to insist on ALWAYS granting their subsidies in *Convocation*; since that assembly was always at hand to enable them to serve the crown with expedition.

How soon they succeeded in this likewise, may be guessed at, from what passed in parliament so early as the fourth year of Richard II. The *Commons* having offered a certain sum, on condition the *clergy* would give their proportion; the churchmen bravely answered, *That their grants* NEVER HAD BEEN *nor ought to be made in parliament.* Without doubt, applauding themselves for their dexterity in securing the honour of their word, by giving the name of *grant*, to the *confirmation* of it. A covering, slight as it was, yet suiting, well enough, this summer-season of the church. But the prelates of those times never obtained a favour, which they did not employ for a step to procure a greater. Thus we have seen how they used the indulgence, of *sometimes confirming* their grants in Convocation, to extend their claim of *always confirming them:* And, from this latter allowance, how they were encouraged to ask the privilege of

*some-*

*sometimes making* their grants in Convocation: which when imprudently connived at, they proceeded, in a little time, to claim the right of *always making* them there. With what success they accomplished all this, may be seen above, where they declare, as if they had ingrossed to themselves the gift of memory as well as languages, *that their grants never had been, nor ought to be made in parliament.*

But, so the clergy *granted*, the indigent monarch was little delicate about the manner how. He thought he had fully secured the main point, by always summoning a Convocation along with a parliament. But he was out in his reckoning: the clergy were not to be so served. They appear to have been ill at ease while labouring under this badge of civil dependency, the necessity of granting when the other *estates* did. They therefore at length assumed, not only, that they ought to grant no where *out of* Convocation, but that, *in it*, they should grant but when they themselves pleased, as their own consent, they pretended, was necessary to bring this Convocation together. In the weak reign of *Richard* II. *Courtney*, archbishop of Canterbury, plainly tells the King himself—*Credimus quod Clerus convocari non valeant, nisi scripsimus pro eodem* *. By a dextrous pass of hand, trying to establish this *usurped* right on a former *contested* one; by confounding the new provincial *Convocation*, called for civil matters, with the old provincial *synods*, convened only for spiritual.

It is true, that by this conduct, they lost as much of their *legal* ground on one side, as they had gained of their *usurped*, on the other. For when they had possessed themselves of the power of granting only in Convocation; and claimed to assemble that Convo-

* See note [F] at the end of this Book.

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cation when they themselves thought fit, they had no longer a pretence of being an *estate in parliament*. But their canonists had warned them of the danger of parting with any thing they had once got. So that trusting to what stood them in more stead than their own clerkship, the ignorance of the laity, when in the fourth year of Richard II. they had, as we have seen, affirmed IN VERBO SACERDOTIS, *that their grants never had been, nor ought to be, made in parliament*, and thereby fairly abolished their *estateship in parliament*, they did not scruple, in the twenty-first of the same reign,—*to pray the King, that since divers judgments were undone* HERETOFORE *for that the clergy were not present, they might appoint some common proctor with sufficient authority for that purpose*. They confided in their logic, and were not deceived. They desire they may be still acknowledged an *estate in parliament*, because they had been one HERETOFORE. And the demand was granted: for what *court* could resist the force of such an argument?

By what hath been said, the reader may now understand, that since the time of Edward I. there have passed three periods, in the course of which, the clergy exercised this right of *taxing themselves*. The first was when they did it in Parliament only. The second, when they did it sometimes in Parliament and sometimes in Convocation. The third, when they did it in Convocation only. Under the two first they were, without all question, *a civil estate in Parliament*: under the last, *a civil estate only in Convocation*, which they continued to be all the time they taxed themselves in that place. But when they had given up this right to the community, they ceased to be a *civil estate* even in *Convocation*: and from thenceforth were no other than representatives of the church

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in their *synods* for spiritual matters. And in quality of *a civil estate*, were reduced back to what they were before the time of Edward I. AN ESTATE OF THE KINGDOM. Very properly distinguished from an *estate in parliament* or in *convocation*, nothwithstanding bishop Stillingfleet's reasoning to the contrary: Who says,—"That then the *three estates are not* REPRE-"SENTED *in parliament*." For this is a mistake. No *estate* can sit in parliament but for their TEMPORALS: and the clergy, since they ceased to tax themselves, have been represented for their *temporals*, by the COMMONS; whose members are chosen by the clergy and lay-people promiscuously, according to their respective properties. It is true, this answer would be defective, were the *temporalities* of the clergy of a distinct nature from those of the laity, as was the doctrine in the times of superstition, when a certain consecration of one part of them, and a divine designation of the other, sanctified their property, as it did their persons. But the clergy have long since become both wiser and honester. They own their possessions to be a property derived to them from the same civil source with that of the laity; that it is all of the same *species*; and consequently may have the *same representation*. But the learned prelate's phrase is curious—*An estate* REPRESENTED *in parliament*, for, *an estate sitting in parliament*: but the impropriety was unavoidable. The churchmen in parliament were, at this time, too few to be called *an estate*, he therefore chuses to call them *the representatives of an estate*.

AGAIN: "I cannot see (says bishop Stillingfleet) how "it can be avoided but the bishops in parliament "must be one of the *three estates*, unless a convoca-"tion sit." And then I suppose his meaning is, that not the bishops alone, but they, with the rest of the clergy,

clergy, make the *first of the three estates in parliament.* His whole reasoning being founded on this mistaken principle, that it is now essential to the British constitution that its parliaments should be composed of THREE ESTATES. At least, he must suppose, that since there was once *three estates* in it, no change has been made in the constitution; no such change having been proclaimed. But this change, we say (as important as it is) is a matter which may be done in silence, and by degrees, as well as suddenly, and with much noise.

To return: the time when the clergy ceased to be *a civil estate in Convocation* is well known; for the Æra of their giving up the right to tax themselves is in every man's memory.

But the precise time of their ceasing to be an *estate in parliament* cannot be so well fixed. It was certainly at the time when they no longer gave in *parliament*, but in *convocation* only. Yet, when this was, is not easy to be found. For they gained their point, as we observed above, gradually, and step by step. First, they grew importunate to have their grants in parliament, *confirmed* in convocation. When they had got thus far, they tried for the privilege of *granting* in convocation. This was not so easily obtained: however, occasionally, it was indulged. So that, for a course of years, they sometimes *granted* in one place, and sometimes in another. At length they gained the point they were ever aiming at from the first; to be allowed to give their subsidies *always in convocation.* From thenceforth the clergy, no longer granting in *parliament*, were no longer any *estate* there. This precise time, for the reasons just given, is not likely to be ascertained; yet one would think that the small number of the clergy which afterwards came to parliament, would

would have pretty well marked it out. And so indeed it would, but for that perversity and wayward ambition in the clergy, who would needs continue an *estate* in parliament, though, by persisting to grant only in *Convocation*, they had transferred their *estateship*, (together with their submission) from *parliament* to that other place: and the *præmunientes* clause continuing (as it still does) to run the same, in the bishops' writs of summons to parliament, supported them in this absurd idea. However though, occasionally, they sat in numbers like an *estate*, some think, as late as Henry VI. yet from the time (as well as we can guess) that the clergy granted *only in convocation*, they gradually paid their attendance in *parliament*, in fewer and still fewer numbers; till at length none came thither except the bishops and greater prelates. But, indeed, it was no wonder the clergy should indulge this notion of their being still an *estate* in parliament, even after they had refused that submission and service of granting in parliament, which was the only thing that made them so; it is no wonder, I say, they should be fond of this notion, since the *two other estates* appear to have been long under the same delusion, with regard to these prelatical deserters. For the clergy, as we said, coming from thenceforth (except when their usurped claims were in danger) in small numbers to parliament, the Speaker of the House of Commons 21 of Richard II. required that the clergy should constitute a proxy to parliament; because, says he, "Divers judgments "and ordinances have been repealed and annulled, "for this reason, that the STATE of the clergy was "not *present* in parliament at the making of them *."

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* Archbishop Wake observes, that to the 5th of this King the writs to the clergy ran to *do* as well as to *consent*; from the 5th only

The Speaker's political logic not reaching to this truth, that when the King and Parliament had consented that the clergy should grant their parliamentary subsidies in *convocation*, they were no longer a STATE in *parliament*, but a STATE in *convocation only*. On the same mistaken principle, it continued a custom long after, for the House of Lords to adjourn themselves on those days when the bishops and prelates were to be absent in Convocation, as wanting, at such times, this imaginary ESTATE. Nay, the whole LEGISLATURE, the King and parliament, even down to the time of Elizabeth, continued, in their public acts, to give the name of an *estate* to the clergy in parliament.

THAT the NAMES and FORMS of things should remain the same, long after the things themselves have ceased or been abolished, will appear nothing strange to us, when we reflect, how adherent and tenacious the people, in all times and places, have ever been of old modes and fashions. Especially when we observe further, that their governors have generally found it for their interests to comply, in this matter, with the people's humours and tempers. So that when a *constitution* hath undergone a change, not by violence, but by slow and insensible degrees, OLD NAMES AND FORMS have still continued; and kept their ground so long that, at length, for this very reason, the *change* itself hath been called in question. Nay, when the *constitution of a state* hath been totally changed, and even by sudden violence, as was that of the republic of Rome to an imperial tyranny, so fond were that people of *old names*, and so apt are all people to take *names* for *things*, that the usurpers found a necessity,

only to *consent, reducing* (says he) *their power to a mere matter of consent*. But is not *consenting* and dissenting, *doing*; and does it not imply that their consent was thought necessary, as an *estate*?

necessity, and found their account in that necessity, of having NOMINAL *Consuls*, *Prætors*, *Tribunes*, &c. according to the old republican forms.

We need not wonder then, that when the clergy, so lately as Elizabeth, were called, by the several statues of her reign, an *estate in parliament*, there should have been ever since several particulars of great name, both amongst the clergy and laity, some with good faith, and some without, who have persevered in contending for this imaginary *estate*. Not all, for the sake of the clergy: The constitution has engaged the care of many, who finding the records speak so frequently of THREE ESTATES in parliament, and seeing from many of the circumstances, occasionally enforced above, that the *clergy* could no longer be one of them, they have, in order to make out *three estates in parliament* (essential, as they falsely supposed, to the constitution) made the King himself the FIRST ESTATE, in direct opposition to the very nature and genius of all FEUDAL governments.

Thus have I endeavoured, by a plain historical deduction of facts, to clear up a very embroiled affair: in itself of importance; but necessary to be explained, if we would discourse intelligibly on the two next questions, which I promised to discuss.

II. The first is, in what capacity the Bishops now sit in the House of Parliament, when they are no longer an ESTATE there? Whether as PRELATES of the church, or as BARONS of the realm, or both?

The House of Lords compose two sovereign assemblies; a supreme COURT of judicature with the king at the head; and an ESTATE of legislature. The bishops sit in this supreme court of judicature as BARONS OF THE REALM. In the Saxon times, indeed, they held their

their temporalities in *frank almoigne:* but the Conqueror, much against their will, changed that tenure into *baronage*, by subjecting them to all the services of lay-baronies. The constitutions of Clarendon go upon this principle, and declare that the bishops sit as *barons* in the supreme court of judicature. "ARCHIEPISCOPI, EPISCOPI (say the Constitutions) et "universæ personæ regni, qui de rege tenent in capite, "habent possessiones suas de rege, sicut BARONIAM, "et inde respondeant et sicut *cæteri barones* debent "interesse judiciis curiæ regis."—On these *Constitutions*, NAT. BACON observes, and rightly, *that they were made by the Lords in their judicial capacity.* The *Constitutions* are formed upon the principles of the FEUDAL LAW, which directs, that *barons* of the realm only shall compose this court. Indeed, according to the nature of civil government in general, as well as of the *Feudal* in particular, none but *barons* for their temporalities, whether lay or ecclesiastical, can sit in such a court of justice.—As ministers of Christ, or as successors to the apostles in the government of the church, no bishop has any *civil jurisdiction* belonging to his office. *Who made me a judge or divider amongst you?* says their divine master. So that whatever *civil jurisdiction* churchmen have, they derive it all from the *civil power:* and from this power of the *Feudal* kind, *ecclesiastical barons* are invested with right of judgment in that supreme court.

It is otherwise in the legislative part of this high assembly. There, the bishops sit as PRELATES OF THE CHURCH, in behalf of religion; nothing being more consonant to right reason, in a Christian country, or more essential to an *alliance between church and state*, than that certain of the superior clergy should be of the higher court of legislature: not as *representatives* of the

the *church*, any more than lay lords are *representatives* of the *state*, but as members simply of each society, yet, at the same time, as GUARDIANS of each, respectively. But with this difference, that as the temporal lords are ordained to watch over the civil interests primarily, and the religious interests in the second place; so the spiritual lords are to intend the religious interests primarily, and the civil, only in the second place. *Lay* and *spiritual* lords belonging to both societies; but belonging to them in the varying modes of relation above explained: the indispensable qualification both of the MAGNATES and the PRELATI to bear this share in legislation, being their BARONIES.

That this is the sense in which the English constitution considers the bishops' seat in this high court of legislature appears from the old custom, in the vacancy of a see, to send writs to the GUARDIAN OF THE SPIRITUALITIES to attend parliament: a plain declaration, that government considered the bishops in parliament as *ecclesiastical prelates* sitting in behalf of religion, rather than as *barons*: for, the barony, at this period, is, as it were, in *abeyance*. While churchmen made a third estate in parliament, the bishops sat as BISHOPS, properly so called, and BARONS: ever since, they have sat under the more general idea of PRELATES, or superior churchmen, and BARONS; as bishops now do in the Germanic diets, where they sit as prelates and princes of the empire.

This will assist us to appreciate the value of Lord Chief Justice HALE's opinion concerning bishops in parliament, as we find it in a manuscript treatise *touching the right of the crown*, communicated to me by a friend. By which it appears, that his not properly distinguishing between the *court of judicature*, and the *estate of legislation*, in the HOUSE OF LORDS,

hath spread over his discourse much inaccuracy and confusion. His words are these:—"The bishops sit "in the House of Peers by *usage* and *custom*, which I "therefore call usage, because they had it not by ex- "press charter, for then we should find some. Neither "had they it by tenure; for, regularly, their tenure "was in *free-alms*, and not *per baroniam*, and there- "fore it is clear they were not *barons* in respect of "their possessions, but their possessions were called "baronies, because they were the possessions of cus- "tomary barons. Besides, it is evident that the writ "of summons usually went *electo & confirmato*, before "any restitution of the temporalities; so that their "possessions were not the cause of their summons [as "it was in part, and but in part, in the case of some "abbots.] Neither are they *barons* by prescription; "for it is evident that as well the lately erected bishops, "as *Gloucester*, *Oxon*, *&c.* had voice in parliament, "and yet created within time of memory, and without "any special words in the erection thereof to entitle "them to it. So that it is a privilege by usage an- "nexed to the episcopal dignity within the realm; "not to their order, which they acquire by consecra- "tion; nor to their persons, for in respect to their "persons they are not barons, nor to be tried as "barons, but to THEIR INCORPORATION and dig- "nity episcopal."—*The bishops sit in the House of Peers by usage and custom.* This is observed, to shew a difference between their right, and the right of the Lords-temporal. He gives two reasons for his assertion. 1. *Because it is not by express charter.* 2. *Neither by tenure; for that,* REGULARLY, *their tenure was in* FREE ALMS, *and not* PER BARONIAM. His first reason is allowed; but then it includes many Lords-temporal, who sit by *usage and custom.* His second

reason is more to his point, but not true; for though during the Saxon times they held their possessions in *free alms:* yet, as the learned Chief Justice well knew, this tenure was changed by the Conqueror (along with the constitution itself) into the tenure *per baroniam.* Now, because they once sat, and not for their tenures, does it follow, that they cannot sit at present for their tenures, which give a right by usage and custom? The clergy were once the *first estate in parliament.* Would the great man have allowed it to follow, that they are so now? It is with regret that I take notice of a piece of management and argumentative *finèsse,* in the most candid of all writers.—REGULARLY (says he) *their tenure* WAS *in free alms.* If instead of, *regularly,* he had said, *anciently,* the phrase had been exact, and the proposition true. But then it would not have served his purpose. *Regularly* (says he) *their tenure was*—this, though a kind of jargon, is to insinuate however, that *regularly their tenure is.* Yet this being visibly false (because the Conqueror changed what *regularly was*—free alms; into what *regularly is*—per baroniam), the good man chose rather to *insinuate,* by an obscure phrase, what he would not *affirm* in a plain one.

But further, to support his second argument, he observes, that *the bishops' writ of summons* USUALLY *went electo & confirmato, before any restitution of the temporalities.* And for a good reason; but a reason which makes nothing for his point; though this he did not see, from his not chusing to distinguish between the lords' *juridical* and *legislative* capacity. In the *latter,* we have shewn, that the bishops sit as *prelates* and *guardians* of the church, and not as *barons;* though their *qualification* to sit in a court of legislature is their baronies: in the *former,* they sit as *barons.* But the principal branch of parliamentary business

being the *legislative*, the *juridical* being only occasional, we easily understand how it came to pass, that the summons USUALLY went *electo & confirmato*. This leads me to observe (as it tends more clearly to explain this matter) that the practice of the great officer of state, who issues these writs, has been, sometimes to send them *before the restitution of the temporalities*; sometimes *after*; just as each happened to conceive of the bishops' right in general; or to distinguish concerning the exercise of it, in the two distinct courts, in particular.

The learned Chief Justice gives his second argument this further support. *Neither are the bishops, barons by prescription, for the lately erected bishops, as Gloucester, Oxon, &c. had voice in parliament, and yet, created within time of memory.* But surely, if the temporalities of the ORDER be *baronies by prescription*, as his argument seems to allow, then, in all reason and common sense, those members of the ORDER, lately formed, are, by the very erection of their bishopricks, partakers of all the rights of *barons by prescription*, enjoyed by their elder brethren: and this, on the very principles of the learned Chief Justice himself: who, in conclusion, tells us, they derive all from *their* INCORPORATION *and episcopal dignity*. But we know that all the *members* of an *incorporated body* enjoy the same rights and privileges in common. This shews the true reason of a fact which the learned Judge seems to lay some stress upon, where he observes that in the creation of the new erected bishops, *there are no special words in their erection to intitle them to the rights of barons by prescription:* for now, we see, even on the learned lawyer's own principles, there was no need.

From all this defective reasoning he thus concludes.—

*So*

*So that it is a privilege by usage annexed to the episcopal dignity within the realm, not to their order, which they acquire by consecration.* He means, they sit as *bishops of the church of England*, not as *bishops of the universal church.* This is true when meant of their seat in the court of legislature only.——He goes on—*the privilege is not annexed to their persons, for in respect to their persons, they are* NOT BARONS. It hath been here evidently shewn, that THEY ARE, unless personality be separable from office or title; and that the *privilege* of sitting in the high court of judicature is annexed to their *baronies*; which *baronies* are a QUALIFICATION for their sitting in the court of legislature; though in this court, the *privilege* of the bishops (to speak in the chief justice's own language) *be* IMMEDIATELY *annexed to episcopal dignity within the realm.*

III. The last question is concerning the PARLIAMENTARY PEERAGE of the bishops. For such is the perversity of opposing parties, and their equal propensity to fall into contrary extremes, that while some churchmen, on the one hand, will still have the bishops an ESTATE in parliament, although it hath been extinguished long since; so on the other, some laymen seem unwilling to allow, that the bishops are even PEERS in that place, though long possessed of this uninterrupted title; at all times, recognized by our *kings* and *parliaments* themselves. By these, they are declared to be—PEERS *of the land*—PEERS *of parliament*—PEERS *of the realm.* In the 15th of Edward II. when the parliament reversed the judgment of the *Spencers*, one cause by them assigned was, *Because the Lords Spiritual, who were* PEERS, *assented not to it.* In an Act of 25 Edward III. intituled, *A Bishop's Temporalities shall not be seized for a con-*

*tempt*, this reason is given——"Sith they be PEERS of "the land, the king, &c." In the 21st of Richard II. they are called *Peers of the Realm, Peers in Parliament, and Peers of the Realm in Parliament.* And when the Commons prayed, that archbishop Arundel might be put in safe custody, the king's answer was, *That he would be advised, because the impeachment touched a* PEER *of the kingdom* *.

But perhaps it will be said, "That some change in the constitution may have deprived the bishops in particular of their PEERAGE; as it did churchmen collectively, of their ESTATE in parliament: although the NAME of *peer* (like that of *estate*) might be long in use, even after the thing itself was lost and abolished." To this I answer, that the change in the constitution, whereby churchmen lost their *estate* in parliament, has been fully explained: It will be incumbent therefore on the enemies of the bishops' *peerage* to shew what change it was in the constitution which deprived them of this latter title †. As they are not likely to do this, I shall proceed; and first, it may be asked, what

* See, for further proof of this point, Selden's Privileges of the Baronage. Wilkins's edit. p. 1538.

† For I do not suppose that a *declaration* of the Lords not long before the confusions of the civil wars in the time of Charles I. to be found at present (I do not know by what confusion of ideas) amongst the *standing orders* of the House, will be judged of force to make such a change. Mr. Selden, who, by order of the House of Lords, drew up *a collection touching the privileges of the peers of parliament*, seems to refer to, and to confute that *standing order*, in his second chapter, concerning privileges of the *second kind*, in the following words—"It hath been doubted whether the same "law (by which temporal barons are to be tried by their peers in "parliament) be in case of trial of spiritual barons or no. And "in that doubt *one special argument*, amongst others, hath been "made from the name of *peers*. *Some* concluding thus, *spiritual "barons are no peers; therefore not to be tried by their peers.* "But it is plain and true, the spiritual barons *are peers*; the "testimonies justifying them to be so are very frequent."

mighty

mighty reasoning it was which disposed them to conclude, *that bishops were not peers in parliament.* For as to the late offer of an argument, "that PEERAGE belongs only to HEREDITARY *baronies,*" it was urged under an entire forgetfulness of the nature of *feudal tenures.* The greater lay fiefs, long before they became *hereditary,* were only PERSONAL, for term of years or life. But the authentic argument is this, "That in capital cases, the bishops are not tried by "the *Peers,* but by a Jury of the *Commoners:* and "that they themselves cannot sit in judgment upon "the *Peers,* when it proceeds to the loss of life or "members."

The reasoning, we see, stands on this false PRINCIPLE, *that the title of Peer in Parliament depends on their judging and on their being judged.* Now granting, for the present, that the *principle* is true, it will by no means follow, that these premisses infer the conclusion, that therefore the bishops are *not peers* in parliament. For though, in *capital cases and of blood,* they try not, neither are they tried, in the manner which these men imagine to be *essential to peerage,* yet in *misdemeanours* they have the common right and privilege of trying and being tried like the lay lords. If therefore the argument hath any strength, which concludes that the bishops *are not peers,* because they neither try nor are tried in capital cases of blood; it is equally strong when it concludes, on the other hand, that they *are peers,* because they try and are tried in cases of *misdemeanour.* From all this, my logic teaches me to infer, that the reasoning which concludes both ways can conclude neither.

But, a truth laid down under the second head, and inforced by *the laws and constitutions of Normandy,* might teach men to reform their logic on this occasion.

Barones (say these Constitutions) autem per PARES suos debent judicari *. I argue then in this manner —All BARONS (according to the feudal law) have a right to be tried by their PEERS. The bishops are acknowledged to be BARONS; therefore they have a right to be tried by their PEERS. This is common sense. But what name now shall we give to this distorted reasoning. *The bishops are not tried by barons, therefore they are not peers!* The rules of good reasoning require that our adversaries' premisses should have a very different conclusion.—*The bishops are not tried by barons, therefore they are not barons.* But the misfortune was, their *baronies* were acknowledged; and therefore they had only that misshapen syllogism to trust to. In a word, it was not the *trial*, it was the *barony* which made the PEER. But why should we stand quarrelling with the *form* of the *argument*, while the argument itself is destitute of all *substance*. The vanity of it may be shewn in very few words. It is only desiring the learned Reader to recollect, how it came to pass that the bishops' right of trying, and being tried by their peers, in capital cases, fell into disuse.

In the times of church tyranny and superstition, the clergy, now become all-powerful, amongst their many usurpations, claimed this, an exemption from the civil tribunal: for, serving *two masters*, and both unfaithfully, they soon learned the trick of escaping the KING'S justice by sheltering themselves under their spiritual head, the POPE. The clergy had provided largely for lay-rogues of all kinds; who, in old pagan asylums, new-christened, *sanctuaries*, and spread over the whole land, might safely defy the justice of the laws: and they thought it hard not to have one *place of refuge* for themselves. This, partly through the

* Jur. et Const. Norm. c. ix.

ignorance,

ignorance, partly through the superstition of the state, though it had long struggled against this new species of treason, was, by the time of Henry IV. become a legal doctrine. This king would have had Sir W. Gascoine, a man of great probity, and knowledge in the laws, arraign archbishop Scroope; whom the sovereign had taken in arms, fighting against him. But the Chief Justice told his master, "that, by the constitution, neither his highness, nor any one by virtue of his commission, could be authorized to sit upon the life of a bishop." However, the king procured another judge who was less scrupulous; and by his assistance this metropolitical rebel was condemned and executed. Though he is said to be the first bishop who suffered death in England by the sentence of civil judges. And the POPE did all he could that the first bishop should be the last; for he excommunicated those who were concerned in the impiety of that sentence. Thus the matter stood till the dawnings of the Reformation. And when afterwards the bishops returned to their obedience, and a willing subjection to the civil power, the lay peers, once irritated, never since thought fit to forget this insult on their peerage; but left them to apply for justice where they could. Though I am inclined to think, that when Henry VIII. had extinguished the papal authority in England, he would have restored the bishops to that high privilege of peerage, the being hanged by the LORDS, had not the first episcopal criminal been bishop FISHER, his most inveterate and personal enemy. And when once there was a precedent to try a spiritual peer by commoners, the old resentment still fresh in the HOUSE would do the rest.

The other episcopal claim of exemption, *the not sitting on their peers in capital cases*, has a more certain

tain and determined original: although it arose from the same treasonable principle, which encouraged them to desert the civil laws, and adhere to the ecclesiastical. Archbishop *Lanfrank* had, in a synod at London, procured the following canon of the council of Toledo, to be received amongst the ecclesiastical laws of this realm: a canon founded in hypocrisy, and a feigned show of superior *mercy* and *purity*.—"Ut nullus "episcopus vel abbas seu quilibet ex clero hominem "occidendum vel membris truncandum judicet, vel "judicantibus suæ authoritatis favore commendet." Henceforth the bishops, in such cases, to prevent the danger of incurring what, in the language of canonists, is called an IRREGULARITY, begged leave to withdraw. This at first was hardly granted, and with much reluctance, both by king and parliament, as it was a declining of the service of their tenures; a misdemeanour, on the feudal ideas, of a very high nature. Yet here again they got another triumph over the state; and the *Constitutions* of *Clarendon* established them in this usurped privilege likewise. "Archiepiscopi et "episcopi, *sicut cæteri barones*, debent interesse judi- "ciis curiæ regis quousque perveniatur ad diminu- "tionem membrorum vel ad mortem."—However, this constitution (we see) in its first and principal intention is *positive*; and *negative*, only in its second and inferior. They are *required* to sit in judgment, and only *indulged* to withdraw when the sentence proceeds to loss of life or member. But we may be sure, it was not in the intention of the bishops, while they were extending their *ecclesiastical* privileges, to give way to the loss of any of their *civil*. They took care therefore, when such *judgment* was to be given, to offer (together with their *request* to withdraw) a PROTEST that their withdrawing was an INDULGENCE, not

not an EXCLUSION. And that this might be kept in perpetual memory, they required it to be registered. In this they call themselves *pares regni*; and their right to SIT STILL, *jus paritatis*. So little did they foresee, after all this caution, that their PEERAGE could ever be called in question, from their asking leave to observe the canon of Toledo.

This is a fair and true account of matters of fact; from whence arose the custom of bishops to withdraw, on the trial of peers, when the sentence came to loss of life or member; and of their being sent themselves to an inferior tribunal, when charged with a capital delinquency. Which yet, is not given to insinuate the justice or equity of restoring them now, in these happier times of Gospel light and liberty, to those rights, which they themselves had abandoned. Perhaps true policy may require that that desertion of the service of the state, and that refusal of civil subjection, should, for example's sake, be branded with a lasting punishment, to deter bad churchmen, in all future times, from wantonly insulting the powers and prerogatives of society*. Yet still, this reasonable justice should not be abused, by extending the punishment to a deprivation of that dignity which the bishops never gave up, but always claimed, and, what is more, was, by sovereign authority, always acknowledged.

This account opens our way (which is all that is intended by it) to the discussion of the last question; Of the bishops' PEERAGE; by shewing, in the first place, that these JUDICIAL RIGHTS in part lost, and in part contested, were not of essential concern to their *peerage*, in the original Feudal Constitution, but accessary only to it; and occasionally arising from it. Spelman, who went upon these ideas, distinguishes

* See note [G] at the end of this Book.

very

very rightly, the PARES (as they were, at first) generically considered, from the PARES CURIÆ, as they were afterwards specifically understood. The former, he thus defines, "PARES dicuntur qui acceptis ab eodem domino, puta rege, feudis PARI LEGE VIVUNT." The other, thus, "PARES CURIÆ sunt qui in eadem curia PARI FUNGUNTUR POTESTATE.—EJUSDEM CURIÆ JUDICES"—But, *pari lege vivere*, he makes of the very essence of the PEERAGE in all feudal constitutions. If ever, therefore, our prelates endangered their *peerage*, it was when, submitting to canons against laws, they acknowledged the POPE for their *Seigneur Suverain*; and so, were not, like the lay-peers, *sub pari lege*. But when they returned to their obedience, and that obedience was ACCEPTED, their right of *peerage* was again *rectum in curia*.

Nay should we admit, that the rights, privileges, and prerogatives of the *English peerage* (both legislative and juridical) stood all upon one original and equal footing; yet the loss of one or two, out of many (if that indeed were, as it is not, the case) could never deprive these partial sufferers, of their *peerage*.

Indeed, in that other kind of *peerage*, amongst the *equal people of a vicinage*, where they derive their title from the common exercise of a single right only, viz. the trying, and being tried by, one another, whoever loses this right, loses his *rural peerage*. But where the title is derived, as in this *sovereign peerage*, from the exercise of many common rights and prerogatives, the loss of one (especially if the TITLE, as here, was not derived from that *one*) cannot, while he enjoys all the rest, deprive him of the name of *peer*, any more than the loss of an arm can deprive the loser, of the name of *man*; which was derived to him from the donation of many *essential* parts, which he still possesses;

possesses; analogous to those *essential* parts in legislation, still enjoyed by the *lords spiritual*. For the rights exercised by the supreme court of legislature are the *essential prerogatives of the peerage*, not those rights exercised in a supreme court of judicature, annexed to parliament. On this plain distinction, arising from the first principles of common sense, it was, that our incomparable SELDEN apparently went, when he declared it as his opinion, that the bishops' ceasing to claim or to exercise any part of their *juridical* power did not deprive them of their PEERAGE.

But the DENIAL of the bishops' *peerage*, for the reason here assigned, is a novel conclusion, how respectable soever become by the quality of those who lately deduced the conclusion, and of those who more lately supported it. The *peerage* of the bishops hath, by all the ANCIENT PARLIAMENTS, been invariably and incontestably acknowledged, even then, when their right, and the exercise of that right, *in trials by peers*, stood just as it doth at present. So little conception had those ancient barons (who best knew the nature and privileges of their own tenures) that the bishops' claim of exemption from the civil tribunal, and licence to follow a canon against law (though the barons disputed both) could at all effect their prerogative of *peerage*. To give one example out of many. In the *protestation* of the clergy, 2 Richard II. they call themselves *pares regni—cum cæteris dicti regis paribus*—meaning the lay-lords. This *protestation* was enrolled in full parliament by the king's command, with the assent of the lords temporal and commons; and so became a compleat STATUTE. It is further to be observed that, in this parliament, the lords temporal were all-powerful.

What hath been hitherto said hath gradually opened

to

to us the true principles on which this question must be finally decided: To speak out, The argument employed (and no other has been yet advanced) for this DENIAL of the bishops' *peerage*, stands on a mere EQUIVOCATION. The term PEER is ambiguous: it signifies either, the *equal* inhabitants of a certain district, who enjoy, in common, a right of trying one another, by a select number, called a *jury*; which sort of PEERAGE arose out of the old GERMANIC constitution; or else it signifies, the *magnates*, the *patricii*, who sit in the supreme court of parliament, as the great council of the sovereign; and this PEERAGE arose out of the later FEUDAL constitutions. Now the denial of the bishops' *peerage*, which is of the *feudal* kind, is only supported by an argument drawn from the nature of the *peerage* of the *Germanic* kind; in which no other privilege than the *right of trial* gave the title. Whereas in the *feudal peerage*, the matter of juridical trial did not so much as come into the original idea of it: as we shall now shew.

*Feudal Peerage* arose from the common enjoyment of the privileges belonging to a BARONY; the first and most essential of which was the right of sitting in the great council of the sovereign, convened for the discussion of public affairs, and assembled in the high court of parliament, with the monarch at their head. *Dicuntur* PARES CURIÆ [senatoriæ] (says *Spelman*) *quod in curia domini illius cujus sunt vasalli, parem habent potestatem.* But the King being the fountain of JUSTICE, as well as HONOUR, he constituted in this assembly his supreme court of *judicature* as well as of *legislation*. Yet that this did not come into the first ideas of these sovereigns, who created the FEUDAL PEERAGE, appears from the more early definitions of the title.

The

The word *peer* or *par*, in the feudal language, when applied to the *Magnates*, signifies, in its original, men who hold of the sovereign, by one common tenure, and under the same services, those higher fees, called baronies. In the parliament of Northampton, held by Henry II. the bishops challenge their *peerage* under this idea only; and under this idea it was allowed them. "Non sedemus hic episcopi, sed barones. Nos BARONES, VOS BARONES (say they to the Lords-temporal) PARES HIC SUMUS." This was no new logic. For in the old English and French writers, BARON and PEER or *par*, are always used as synonymous * or convertible terms. And with what good reason, *Du Cange* tells us, where he says, PARES EXINDE APPELLATI UNIUS DOMINI CONVASSALLI. Hence, in the feudal law, *par integer* is he who holds a whole fee: and *semi-par*, he who holds but half. That this was the essence of the *feudal peerage*, and the thing in which it originally consisted, appears likewise from the ancient oath of a *peer* of France, given us by *Du Cange*, where nothing else was exacted but "fidelity to the King and Crown of "France; a promise to give him faithful counsel "when asked, and to keep *his* secrets and *their* "*own* †." These were the *pares convassalli*. Afterwards, when their court of judicature received a more regular and settled form, the oath was enlarged; and then, as he tells us, these words were added to it—to render—*la justice au pauvre comme au riche*. And

* What much contributed to their being anciently used as *synonymous terms* was, that a *feudal peerage* and a *feudal tenure* were distinctly liable to the same service, namely, *homage*. Thus history tells us, that Philip Duke of Burgundy performed three homages to Charles VI. of France: the one for his peerage, the other for Burgundy, and the third for Flanders.

† Art. PARES, in his Glossary.

now

now the barons became PARES CURIÆ [juridicæ] as well as PARES CONVASSALLI; the *King's equal judges*, as before his *equal vassals*.

A *supreme court of judicature*, in its first and essential idea, includes the duty (as the oath exacts) of *rendering justice* to others, *the poor as well as rich*. But the members of this court being themselves, like others, obnoxious to justice; and it being unsuitable to their dignity to come juridically before their inferiors; it was thought most agreeable to equity, that they should be tried by their *peers*, in their own court: just as, by the *Germanic* constitution, all the inhabitants of the vicinage of equal rank did try, and were tried by, their *fellows*; for whose use and credit, the *feudal* term of PEERS was borrowed; and is thus transferred to them, in this law of Henry I. *Unusquisque per* PARES *suos judicandus est, et* EJUSDEM PROVINCIÆ. But it was not that circumstance of *trial* amongst the Lords, (a *consequence* of their equality) but the *equality itself*, arising from their *baronies*, which gave the title of PEERS to lords of parliament. So that the definition of PEERAGE formed from the circumstance of trying one another, is a mere modern notion, sprung from men's confounding the *feudal peerage* with the *Germanic*.

DU CANGE had so little conception that the PEER and BARON were different dignities, that he calls those men *peers*, indifferently, who were either summoned to the *great council of the King*, or those who sat in judgment in the *supreme court of judicature*. "Vox "utraque (says he) eadem notione passim usurpata "legitur pro *majoris dignitatis vassallis*, qui VEL IN "CONSILIUM adhibentur *a domino* AUT rege, vel *cum* "*eo*, PARIUM LITES DIJUDICANT *." Conformably

* Gloss. p. 137.

to

to this usage, the common name for a *baron*, as we have observed, was *peer*, both amongst the old French and English writers.

In conclusion, what is here said will instruct us (which was the point aimed at) to judge of the accuracy of that distinction, which ALLOWS THE BISHOPS TO BE LORDS OF PARLIAMENT, BUT NOT PEERS: since it hath been shewn, "that none but *barons* in parliament are *lords* there; and that *barons* and *peers* are the same."

III. To return. The third and last privilege the church gains by this ALLIANCE, is the being intrusted with *jurisdiction assisted by coactive power*, FOR REFORMATION OF MANNERS. It follows from one of the *preliminary* articles of this alliance, *that the church should apply its best influence in the service of the state.* But there is no way in which this influence can be so effectually applied as by a jurisdiction of this kind. In speaking (in the first book) of the natural defect in the original plan of civil power; and (in this book) of the motives the state had to seek an *alliance*; it hath been shewn, that there is a numerous set of duties of *imperfect obligation*, which human laws could not reach; and several of *perfect obligation*, which, by reason of the intemperance of the sensual appetites, (from whence the breach of those duties proceeds) those laws could not effectually inforce; as their violence yielded only to the influence of religion. Now the good of society requires that *these* should be reached and inforced: but the endeavours of *civil courts* (for of private *societies for the reformation of manners*, the mention is too absurd) have always proved ineffectual: it was necessary therefore, that, in an establishment, *an ecclesiastical jurisdiction* intrusted with coactive power should be erected by the state, for a *succedaneum* to the civil judicatures. And

indeed the sense of those wants and defects which these courts do supply, was the principal motive of the state's seeking this alliance. So that the abolition of SPIRITUAL COURTS (as they are called) would shake the very foundation on which the establishment is erected. On the other hand, the church having now given up her supremacy, she would, without the accession of this authority, be left naked and defenceless, and reduced to a condition unbecoming her dignity, and dangerous to her safety.

FROM hence we deduce these COROLLARIES:

1. THAT *no matters of opinion; nor any civil matters, which the temporal courts can conveniently inspect, come within this spiritual jurisdiction.*

NOT *matters of opinion.* Because the church cannot lawfully exercise (though it were given her) coactive power over conscience. And because, what is thus given, the state had no right to bestow. 1. We have shewn in the former book, that all coactive power is unfitly and unjustly applied by the church to its own service. But, punishing opinions is so applying it: And we have shewn, in this book, that the state lent this coactive power to be employed in the state's service: For the church therefore to employ it in punishing opinions, which is using it in her *own service*, is defeating the end for which it was communicated. 2. The state had no such power to bestow: *For no one can give that to another which he hath not himself.* And we have proved, that the state hath nothing to do with *opinions.* In both cases, indeed, we admit an exception: the church hath an adherent power of expulsion for not complying with its formulary of communion: and the state the same power of coercion for opposing any of the *three great principles of natural*

*religion*, mentioned in the first book of this discourse. But then these exceptions affect not the reality of the position, *that an ecclesiastical court, endowed with coactive power, hath nothing to do with opinions.* For, so far as respects the church's inherent power of expulsion, when not attended with civil detriment, it is the same it was before the union. On other accounts there is a difference; for, since the union, no one can be expelled for not complying with its formulary of communion without the state's consent, as will be shewn in its place. And, with regard to those opinions which concern the *fundamental principles of natural Religion* which the state hath an inherent power to restrain, the exercise of that power is of so great moment and importance to the state, that it would not be safe to intrust it in any other hands: besides, it is very liable to abuse when exercised by *spiritual* courts; a danger not likely to be incurred while in the *civil:* For the *former* have many temptations to confound these principles with those of their peculiar modes of religion; the *latter* scarce any at all. Nor ought ecclesiastical courts to *expect* this power, because it is what temporal courts can commodiously exercise. Which comes in with the other part of the division of those matters that belong not to ecclesiastical jurisdiction: namely, *civil matters, which temporal courts may conveniently inspect.* These, we say, can never belong to an ecclesiastical jurisdiction. It hath been shewn, that this court was erected as a *succedaneum* to the civil, to take cognizance of such actions as the civil could not reach, or could not remedy. And we may be assured that nothing less could have induced the state to consent to its erection. For the parting with a share of its jurisdiction is not a matter of indifference; but, indeed, considering how liable it is to abuse in

other hands, a real evil; which, before the state could be persuaded to incur, it must be satisfied a greater evil would be thereby avoided: and the suffering those transgressions, which itself could not conveniently and effectually restrain, to go unpunished, was that greater evil. A *less* therefore was providently chosen. From hence it is very evident, that the state could never intend to put those things under ecclesiastical jurisdiction, which fell most conveniently under its own. Because here was an evil incurred: and no greater, yea none at all, avoided. Apparently, it was on this principle that the famous BRACTON went when he said, "Non est laicus conveniendus coram judice ecclesias-"tico, de aliquo quod in foro seculari determinari possit "& debeat *." Besides, for ecclesiastical courts to engross matters which belong to the civil jurisdiction †, as it can possibly have no good use, may very possibly be attended with this further evil of inviting and encouraging the church to aim at more power than is consistent either with her own good or the good of the state. But if *criminal causes*, as they are called, which civil courts can commodiously take notice of, belong not to the church's jurisdiction; what pretence hath she to the inspection of *civil causes*, or the determination of private property? The great Founder of her religion said, WHO MADE ME A JUDGE OR DIVIDER

* 45. c. 2.

† Superest ultima appellationum species, quæ locum habet cum jura regis et regni aut jurisdictionem secularem in exercendis litibus de actione reali, etiam adversus clericos, & de omnibus omnino actionibus adversus laicos, præter mere spiritualia, aliqua judicum ecclesiasticorum interlocutione & judicio violari contingit. Plane æquum esse concilium Lateranense sub Innocentio III. existimavit, ne ambæ jurisdictiones præscriptos terminos egrederentur, neu, prætextu libertatis ecclesiasticæ, episcopi secularium jura invaderent. Marca, l. iv. c. 21. F. T.

BETWEEN YOU? And what he would not assume to himself, he would hardly bestow upon his ministers. And that the state should ever intend to give the church what was the peculiar right of the temporal courts, is as difficult to suppose. We must conclude then, that such custom, wherever it is found, was derived, not from the reasonable laws of this alliance, but from the authority of old papal usurpations. And in this light it was regarded by that great and wise legislature under Edward VI. when it took MATRIMONIAL and TESTAMENTARY causes from ecclesiastical courts, and RESTORED them to the civil. How the usurpation of so extensive a jurisdiction first began is not difficult to apprehend, on reflecting upon what hath been before said concerning the methods the state made use of, by the aid of *allied* religion, to add a sanction to its civil institutes. For thus *marriage*, a *civil compact*, being of the highest importance to society, was, in order to give it the greater sanctity, made *a religious one*, by being confined to the administration of the clergy. And so far all was well. But from thence, the clergy, by degrees, took occasion to draw into the church's jurisdiction every civil matter which arose between the two sexes from that compact, the rites of which they administered. And from this example may be seen, what bad work *spiritual courts* cut out, (not for themselves, indeed, but for their neighbours) when they usurp the determination of *civil causes*. For here, though the voice of nature and the oracles of God concurred to pronounce, in some cases, as in adultery, a DIVORCE; yet, on the idle fancy, or crafty pretence, that marriage was a SACRAMENT, they boldly ventured to contradict both, and to pronounce the contract, when not void *ab initio*, indissoluble.

Ecclesiastical jurisdiction, therefore, with coactive

power, neither extending to *matters of opinion*, nor yet to *mere civil concerns*; we must conclude that it was given SOLELY FOR REFORMATION OF MANNERS *. From hence it appears with how just policy our constitution hath subjected all sorts of dissenters from the established church, to this jurisdiction. For the state's care of *reformation of manners* extending to all its members of whatever denomination, no sect can pretend conscience for such an exemption.

2. Another corollary is, *that the erection of these courts does not exempt the clergy from civil jurisdiction.* For as to what is purely episcopal, that is, spiritual, in the prelate's office, his superintendency over the clergy of his diocese, there is no need of a court of judicature to assist him in the discharge of it. A very unfit instrument of pastoral care, in the opinion even of the canon-law itself, which says, "EPISCOPI "se debent scire PRESBYTEROS, non dominos, nec "debent in clerum DOMINARI: episcopus se sedente "non permittet presbyterum stare. Episcopi noverint "se magis *consuetudine* quam *dispensatione* presbyteris "majores †." 1. It hath been shewn, that ecclesiastical courts were not erected for the sake of the church, but of the state. They cannot therefore take cognizance of the civil affairs of the clergy; because *that* would be employing their jurisdiction to their own purposes. 2. It hath been shewn they were erected to take care of those things which civil courts were incapable of inspecting: but all causes that relate to the clergy, whether criminal or civil ‡, civil courts may inspect:

* N. Bacon, in his *Discourses*, p. 44, holds, that ecclesiastical courts were in their original, only *pro reformatione morum*.

† See note [II] at the end of this Book.

‡ Enimvero quia clerici, non tantum qua clerici, sed etiam qua cives

inspect: and not to bring the first of these before the temporal courts, but to allow them a jurisdiction distinct from the rest of their fellow subjects, would be the occasion of much mischief to the state: As not to bring the other before the same common tribunal (the chief of which causes concern their ecclesiastical revenues) would in time create mistakes about the original of these revenues; which being derived from the state, there seems to be no other way to preserve the memory of that derivation, than by providing that all disputes concerning *them* be determined by the civil judicature *.

3. A third corollary is, *that ecclesiastical courts go invariably by the rules and maxims of the municipal laws of that state to which the church is united; that the forms of process and judiciary proceeding be borrowed from the civil courts; and that appeals to these, from the courts ecclesiastical, be allowed, in all cases.* The state must needs intend, when it prescribes and defines the power it communicates, that that power should be exercised according to the RULES and MAXIMS *itself* observes in the civil courts; and observed there, as most conducive to justice, equity, and the ease of the parties. For this care of its subjects in civil courts, it could never be supposed to throw off when it sent them to an ecclesiastical jurisdiction.

It must likewise be supposed to intend, that this power should be exercised by the same FORMS OF PROCESS

cives sunt, spectantur in republica, legibus principum tenentur—potestatem regiam a clericis, qua sunt clerici, et a rebus omnino spiritualibus et mere ecclesiasticis arcemus, præterquam si ad tuendos canones exerceatur. Marca, l. ii. c. 7. F. T.

* Quæ de bonorum ecclesiasticorum possessione, fructibus, & plerumque etiam de proprietate oriuntur lites, apud magistratus seculares disceptantur. *Marca, in præfatione secunda.* F. T.

PROCESS and *judiciary proceeding* which itself employs in the civil courts: because this is the surest way of preserving the memory of the original and dependency of the ecclesiastical *. On which account too, there is a propriety in the judge of this court's being a LAYMAN by civil appointment †. On the contrary, for ecclesiastical courts to administer their power and regulate their proceedings on *foreign forms, rules, and maxims*, is acting as if independent on the NATIVE, or subject to a FOREIGN, JURISDICTION.

That there should *be appeals from these courts to the civil, in all cases*, is as evident. 1. Because it is of the nature and condition of all inferior courts to be appealed from, to a superior. 2. Because *ecclesiastical courts*, not so subjected, would effect an independency on the civil power. And, 3. Because they would soon erect themselves into tyrannies ‡. And

* By the parliament called in the first year of Edward VI. it was enacted, that all processes ecclesiastical should be made in the king's name, as in writs at the common law; and that all persons exercising ecclesiastical jurisdiction should have the king's arms in their seals of office.

† See 26 Hen. VIII. c. 3.

‡ Ac primo quidem de appellationibus, quæ vulgo abusu dicuntur—quæ tractatio cæteras antecedere debet; quia tuitio regia otiosa esset & reliqui libertatum articuli facile labefactarentur, nisi connecterentur hoc uno vinculo—Non omittendum est reges nostros aliquando, etsi nullis precibus ecclesiæ Gallicanæ interpellati essent, novitates a Romana curia adversus aliquos mores introductas, legibus suis & magistratuum executione repulisse, ob detrimentum quod inde regni tranquillitati inferri poterat—Apud Hispanos obtinet, ut episcopi & clerici, qui mandatis regiis non obtemperant, seu ad impertiendam tuitionem contra vim judicum ecclesiasticorum in causa ecclesiastica latis, sive ad repellendam invasionem, quæ fit a clericis adversus jurisdictionem secularem, aut ob quamcunque aliam graviorem contumaciam, jure civitatis, seu naturalitatis regni priventur, & statim a regno expellantur,

And it is observable, that, even in the most unfriendly seasons of our constitution, these appeals had a free course, till obstructed by the statute of *circumspecte agatis* in the time of Edward the First.

These are the privileges, which, through the concession of the state, the church gained by this alliance.

II. Let us see next, what privileges, through the concession of the church, the state gained by it. These, in a word, may be comprised in its SUPREMACY IN MATTERS ECCLESIASTICAL *. *The church resigning up her independency, and making the magistrate her* SUPREME HEAD, *without whose approbation and allowance she can administer, transact, or decree nothing* †. For the state, by this *alliance*, having undertaken the protection of *the church*; and protection not being to be afforded to any community, without power over it, in the community protecting; it necessarily follows, that the *civil magistrate must be supreme.* Protection is a kind of guardianship: and guardianship, in its very nature, implies superiority and rule. The charge therefore of protection, without a right of SUPREMACY, is giving the state no better an office, than that of PUBLIC EXECUTIONER OF THE DECREES OF

expellantur, suisque reditibus spolientur. Non quidem, inquiunt illi, per modum jurisdictionis ordinariæ quæ in clericos regibus non competit, sed potestate quadam politica & œconomica, ut docent Covarruvias & Bodavilla, & omnes Scriptores Hispani. Marca, in præf. prima, & l. iv. c. 9, & seq. F. T.

* Ex Theodosii Imperatoris litteris ad Synodum Ephesinam patet societatem et cognationem quandam intercedere inter religionem et rempublicam; ad principis studium pertinere ecclesiastici status æque ac imperii pacem; regii muneris esse ut eum firmum & inviolatum præstet ex omnium consensu, pietatis religionisque sinceritatem tueatur, curetque ut eorum qui clero adscripti sunt emendata sit castigataque vita. Marca, l. ii, c. x. F. T.

† See note [I] at the end of this Book.

OF THE CHURCH: In which high station we find those states to be advanced that are most enslaved to the papal power. But further, when the state, by this convention, covenanted to afford the church protection, that contract was made with a particular church of one denomination, and of such determined doctrine and discipline. But now that protection, which might be advantageous to a state in union with such a church, might be disadvantageous to it in union with one of a different doctrine and discipline: therefore, when protection is given to a church, it must be, at the same time, provided, that no alteration be made in it, without the approbation and allowance of the state *. Lastly, the state having *endowed* its clergy, and bestowed upon them a *jurisdiction* with coactive power, these privileges would create an *imperium in imperio*, had not the civil magistrate, in return, this *supremacy of the church* †.

The three principal branches of which are these; and because they have been often disputed, we shall now endeavour to explain and support them. The first is,

I. *That no ecclesiastic of the established church can exercise his function without the magistrate's approbation and allowance.* Because the doing otherwise is an act of sovereignty in the church, and of independency in the clergy. But here we must be careful how we think the magistrate, by virtue of this branch

* See note [K] at the end of this Book.

† Carolus Magnus, præter causas pietatis, motus etiam fuit ad distribuenda liberali manu bona ecclesiis, ob utilitatem reipublicæ, existimans nimirum episcopos sanctius observaturos fidem promissam—Ex quibus probatur quoddam jus novum regibus quæsitum fuisse ob naturam bonorum quibus ecclesia fruebatur. Marca, l. viii. c. 19. F. T.

of

of the *supremacy*, can *make or confer the character of priest or minister*; or even himself exercise that office *. This was not, nor *could* be, given him by the convention: 1. Because it answers no reasonable end or purpose. All the possible advantages arising to the magistrate by his supremacy, being secured by his having the EXERCISE of the ministerial function absolutely under his direction. So that to interfere in MAKING the character, would be *impertinent*. 2. Because this power directly tends to the destruction of a church as a society: the essence of which, as we have shewn, is, to have officers and ministers of its own creation. Therefore, the giving up this right to the magistrate would not be a convention of *alliance*, but an act of *incorporation*, absorbing and dissolving the church into the state. This consequence, the enemies of a church, as a society, are so well aware of, that, in order to bring on its dissolution, they principally labour to inforce this point, *that the magistrate may confer and exercise the sacred function and character*. So that to interfere in making the character would be *unjust*. 3. Because this power would in those religious societies, where the founders themselves have directed the manner of conferring the sacred character, be esteemed the violation of a divine right: so that to interfere in *making* the character would be *impious*.

On the whole then we must conclude, that the

* Imperatorem præsidere humano generi dignitate, sed in perceptione sacramentorum sacerdotibus subdi; legibus principis, quantum attinet ad ordinem publicæ disciplinæ, parere religionis antistites, sed in erogandis mysteriis & in cœlestibus sacramentis principem ordine religionis a sacerdotum judicio pendere, &c. Marca, l. ii. c. 1. F. T.

office

office and character of the clergy is made and conferred in the very way it was, before the alliance; whether the method was of divine appointment, or of human: *The exercise only* of that office, when thus made, being under the magistrate's direction.

The opinion of Chief Justice HALE, in the tract before quoted, will, I suppose, add weight to what is here delivered. "1. The power (says he) of eccle- "siastical order *is not derived from the crown*; neither "is it so conceived to be; but so much as is not su- "perstitious, is derived from *Christ*. Hence it is "that the powers of order are not in themselves, nor, "as to the efficacy of them, confined to any diocese "or precinct. 2. The determination of the exercise "of those powers of order to time, place, person, "manner of performance, *is derived from the crown*; "*ex. gr.* the prescribing who shall be a bishop; the "extent of his diocese; the circumscription of him "under pain of contempt to act his powers of order "within those limits; these are powers originally "inherent in the crown. 3. The power of the keys, "*in foro conscientiæ, which is not properly a juris-* "*diction*, because it is without any external coercion "or change in the party. This is *not derived from* "*the crown*, but from a higher commission. 4. All "power of external jurisdiction is *originally in the* "*king*, either formally to exercise, or at least vir- "tually to derive; which is evident*." Under this head is to be referred the king's right of nominating to the greater benefices, which, before the alliance, were elective, and in the body of the church†.

* MS. Treatise touching the Right of the Crown; communicated ut supra.

† See note [L] at the end of this Book.

II. The

II. The second branch of this *supremacy* is, *That no convocation*, synod, or church assembly, hath a right to sit without the express permission of the magistrate: nor, when they do sit by virtue of that permission, to proceed in a judiciary or legislative manner, without a special licence† for that purpose; nor to impose their acts, as authoritative, till they have received his confirmation‡*: Whether it be for decreeing matters of discipline; or for condemning, by expulsion, for matters of doctrine; or lastly, for correcting manners. That the church cannot assemble in synod, under the magistrate's supremacy, without his permission, is evident. Because, before the

* See the Stat. 25 Hen. VIII. c. 19.

† Alio etiam, eoque eximio jure, utebantur principes in præscribendo judiciorum ordine, quæ in synodis a se indictis peragenda erant. Hinc profectum est, ut præcipuos magistratus delegarent qui conciliis interessent, non solum ut vis publica & tumultus arcerentur, sed etiam ut ab episcopis cognitionum ordo servaretur—Tantâ autem severitate hac in parte a conciliis obedientiam principes exigebant, ut si præscriptum sibi judiciorum ordinem egressa fuissent, quicquid neglecta cognitionis lege decretum foret, in irritum mitterent, ut patet ex Theodosii rescriptis adversus synodum Ephesinam latis—Principes aliquando suspendebant prioris synodi judicatum nova synodo indicta, quod factum est a Theodosio in causa Nestorii.—Neque acta synodorum reciderunt nisi ad asserenda mandata quæ dederant, quorum contemptus lædebat auctoritatem publicam: neque executionem rerum judicatarum suspenderunt, nisi ob canonum violationem, e qua scandala & dissentiones oriebantur. Marca, l. iv. c. 3, 4. F. T.

‡ Sufficiunt, opinor, ea quæ diximus, ut difficilibus & morosis ingeniis persuaderi possit, magnam regibus auctoritatem competere ad convocanda concilia—Confirmatio canonum decernenda est a principe, cum cognitione causæ; quandoquidem ei vim legis publicæ in regno tribuit acceptatio & consensus principis, tanquam capitis populorum, & confirmatio etiam, tanquam principis qui superiorem non agnoscit. Marca, l. vi. c. 17—22. F. T.

alliance,

alliance, the power that follows the supremacy and independency of the church, was exercised in those assemblies. To suffer such therefore to meet, after the union, without licence, would be virtually giving up his supremacy, and acknowledging it to be now, as before, in the church. That when assembled it cannot proceed in a judiciary or legislative manner without express and particular licence to act, and without confirmation of its decrees, is plain from hence: 1. Because, in its *judiciary* capacity, the church hath already one jurisdiction, with coactive power, granted to it, called the *bishop's court*. To give it other fixed and standing judicatories would be both unnecessary and unfit. *Unnecessary*, because the bishops' courts are sufficient for the common uses of the state; and, for rare and uncommon cases, an OCCASIONAL JURISDICTION is sufficient. *Unfit*, because the giving two fixed and perpetual judicatories with coactive power, would be intrusting the church with more temporal authority than, even under the magistrate's SUPREMACY, would be consistent with the safety of civil government. 2. Because in its *legislative* capacity, the decreeing matters of discipline, and condemning, by expulsion, for matters of doctrine, cannot be done in alliance without the consent of the state*.

But it appears, on the other hand, a great error to imagine such assemblies, when legally convened, to

* —Nimirum ad regem pertinere jus convocandi ecclesiam Gallicanam, proponendi materiam quam in conventu agitari voluerit, examinandi res in eo decretas, easque, si visum fuerit expedite, approbandi, earumque executionem jubendi—Nunquam discedere oportet ab hac certissima regula, deliberationes Ecclesiæ Gallicanæ considerari non posse aliter quam velut consilium regi datum, easque executioni non posse mandari absque consensu & confirmatione ejus. Marca, l. vi. c. 34. F. T.

be

be either useless or mischievous. For all churches, except the Jewish and Christian, being *human* policied societies, of the nature of which, even the Christian, *in part*, partakes*; and all societies, without exception, being administered by human means, it must needs happen that religious societies, as well as civil, will have frequent occasion to be new regulated, and put in order. Now though by this *Alliance of Church and State*, no new regulations can be made for church government, but by the state's authority; yet still there is reason that the church should be previously consulted, which we must suppose well skilled (as in her proper business) to form and digest such new regulations, before they come before the consideration of the civil legislature †. Acting otherwise is changing this, which is a *federate alliance*, into an *incorporate*

* See Hooker's Eccl. Pol.

† Quæri potest an ex eo quod suprema canonum protectio ad regem pertinet, sequatur eum jubere posse ut observentur, non expectata etiam sententia ecclesiæ Gallicanæ. Certum quidem est earum constitutionum observationem fore sanctiorem, si considerentur cum generali cleri consensu—Nihilominus æque certum est regem ex sententia concilii sui, quod auget & minuet prout ei lubet, posse latis edictis decernere ut canones observentur, ac circumstantias & modos necessarios addere ad faciliorum eorum executionem sive etiam ad veram eorum mentem explicandam, eosque accommodare ad utilitatem regni. Ad probationem autem hujus auctoritatis extant exempla omnium imperatorum christianorum—Utuntur adhuc eo jure reges christianissimi. Nam licet tomos deliberationum cleri Gallicani recipiant, eæ tamen tantum spectantur velut consilium & oratio ad principem, vulgo appellata *remonstrances*. Dein rex decernit id quod lubitum ipsi fuerit, sive respondendo in margine tomi, ut vulgo fieri consuevit; sive etiam per edictum. Præterea reges nostri condunt constitutiones pro condenda politia ecclesiastica ad executionem canonum; neque ullam cujuslibet cœtus sententiam rogant quam sui concilii, quod ex personis ecclesiasticis & secularibus constat. Marca, l. vi. c. 36. F. T.

*union*;

*union*; where, indeed, the practice is different; For in an incorporate union of two societies, one of them is lost and dissolved in the other; by which means, all the power in question devolves upon the survivor*. But, in a *federate alliance*, the two societies still subsist intire; though in a subordination of one to the other: in which case, it seems agreeable to natural equity, that no alterations in church government be made without the joint consent of both. If it should be said, that ecclesiastics are placed in the civil court of legislature for that purpose, I must beg leave to dissent. It hath been shewn, they make no distinct ESTATE there: and, consequently, are not *representatives*, but *guardians* only of the church; to watch over its welfare, and to be always at hand to carry on a mutual intercourse of good offices between two societies so closely allied. And therefore, there was no absurdity in that custom, which continued during the *Saxon* government, and some time after, which admitted the laity into ecclesiastical synods; there appearing to be much the same reason for laymen's sitting in convocation, as for churchmen sitting in parliament.

As for the mischiefs arising from synodical assemblies, by their heats, quarrels, and divisions, it is owned they are great. So as to have occasioned the civil magistrate to suspend them for a long time together. Nor is this a late exertion of the prerogative. We find Archbishop *Anselm* complaining that *William Rufus* would not allow any ecclesiastical synod to be called for thirteen years together: which, upon the matter, took in that king's whole reign. But then we must consider, that these quarrels have all arisen from not having had their original and end,

* See note [M] at the end of this Book.

under

under an establishment, precisely determined. As appears from the constant subject of their quarrels; which have always been about the power and extent of their privileges and jurisdictions. And we may venture to affirm, that synods convened, and meeting, on the principles here laid down, cannot possibly be pernicious to the state, or fruitless to the church. I say, we may venture to affirm this, when such a man as *Hooker* characterises religious councils and synods in the following manner; "A thing whereof God's own blessed spirit "was the author, a thing practised by the holy apostles "themselves, a thing always afterwards observed and "kept throughout the world, a thing never otherwise "than most highly esteemed of, till pride, ambition, "and tyranny, began by factions and vile endeavours "to abuse that divine invention, unto the furtherance "of wicked purposes. But as the just authority of "civil courts and parliaments is not therefore to be "abolished because sometime there is cunning used "to frame them according to the private intents of "men over-potent in the commonwealth: so the grie-"vous abuse which hath been of counsels should "rather cause men to study how so gracious a thing "may again be reduced to that first perfection, than "in regard of stains and blemishes sithens growing "to be held for ever in extreme disgrace *."

III. The third consequence of this supremacy is, *That no member of the established church can be excommunicated, or expelled the society, without the consent and allowance of the magistrate* †. For expulsion

* L. 1. s. 10.

† In contentionibus de jurisdictione ecclesiastica & sæculari, ultimum judicium asseritur supremæ curiæ regni, licentia adempta episcopis jus sibi censuris & excommunicationibus dicendi—Unde sequitur

sion being an act of supremacy, it must needs be authorized by him with whom the supremacy is now lodged. Besides, did the church retain this power under an establishment, nothing could hinder but that it might extend to the supreme magistrate himself: and how absurd it would be for the *body* to expel the *head*, any one may judge. That our ancient constitution thus restrained the exercise of this power appears from the old writ of *quare excommunicavit* *. But then it is to be observed, that excommunication for *doctrines* and matters of *opinion*, even when authorized by the state, must still (the state having nothing to do with the care of souls, nor the church with the care of bodies) as before the union, be free from civil censures or inconveniencies; other than *accidentally* befal the expelled person from a *Test-law*, in those states where the protection of the church, and the peace of the state, requires its assistance. Different in this, from excommunication for *immoralities*; which, under an establishment, hath reasonably and justly civil censures annexed to it †.

From this account of the *supremacy* may be deduced this COROLLARY:

*That the conferring on the supreme magistrate, the* TITLE OF HEAD OF THE CHURCH, *is by no means inconsistent with the nature of our holy religion.*

This

sequitur regem nec regios magistratus aut officiales excommunicationibus vel aliis censuris eam ob causam inflictis obnoxios esse. Alioqui majestas imperii minueretur, & a judicum ecclesiasticorum arbitrio penderet. Marca, l. iv. c. 21. F. T.

* See note [N] at the end of this Book.

† Quod autem inter christianos excommunicati, nisi resipiscant, sint infames, & ad quædam vitæ civilis officia inhabiles, ita ex eo ortum est, quod christiani principes, quoad fieri potest, leges suas ad bonos mores atque evangelicam disciplinam aptent; non quod excommunicatio per se ullo temporali jure bonoque privet. *Bossuet*, l. v. c. 22. F. T.

This *title* hath been misrepresented by the enemies of our happy establishment, as the setting up a LEGISLATOR, in *Christ's kingdom*, in the place of CHRIST. But it hath been shewn, that no other jurisdiction is given to the civil magistrate by this *supremacy* than the church, as a mere political body, exercised before the convention. This, with regard to the title of *Head of the Church*, the famous Act 26 Hen. VIII. c. 1. explicitly declares, "The King, "his heirs and successors, shall be taken and reputed "the only SUPREME HEAD in earth, of the CHURCH "OF ENGLAND.—And shall have full power, from "time to time, to visit, reform, correct, and amend, "all such errors, heresies, and enormities whatsoever "they be, which BY ANY MANNER OF SPIRITUAL "AUTHORITY OR JURISDICTION ARE OR LAW-"FULLY MAY BE REFORMED, ordered, corrected, "or amended." That is, which the church, as a society, or political body, concerned only about SPIRITUAL things, was before empowered to do. From hence it follows, that if the magistrate's jurisdiction be an usurpation on the rights of *Christ's kingdom*, so likewise was the church's. That the church's was no usurpation, but perfectly consistent with the rights of *Christ's kingdom*, may be thus proved; *judaism* was, in every sense, as strictly, at least, and properly the *kingdom of God*, as *christianity* is the *kingdom of Christ:* yet this did not hinder, but that there was, by God's own approbation and allowance, an inferior jurisdiction in the Jewish state. What then shall make the same unlawful in the Christian church? *This*, both had in common, to be political societies by divine appointment; but different in *this*, that God, for wise ends, minutely prescribed the whole mode of *Jewish* policy: and *Christ*, on the contrary, with the same

divine wisdom, only constituted the church a policied society in *general*; and left the mode of it to human discretion *. But I suspect the matter sticks here: these men will not allow the church, or kingdom of *Christ*, to be a society in any proper sense. This indeed is the darling notion of the enemies of establishments. It is certain, the argument of usurping in *Christ*'s kingdom hath no force but on the supposition that the church is no proper society. However, this subterfuge we have totally overthrown; having proved at large that the church indeed composes a society.

Thus have I shewn and explained the mutual privileges GIVEN and RECEIVED by church and state, in entering into this famous CONVENTION. The aim of the state being, agreeably to its nature, UTILITY: and the aim of the church, agreeably to her's, TRUTH. From whence we may observe, that as these privileges all took their rise, by necessary consequence from the fundamental article of the convention, which was, *that the church should serve the state, and the state protect the church*; so they receive all possible addition of strength, from their mutual dependency on one another. This we have reason to desire may be received as a certain mark that our *plan of alliance* is no precarious arbitrary hypothesis, but a theory founded in reason, and the unvariable nature of things. For having, from the real essence of the two societies, and their different natures, collected the *necessity* of allying, and the *freedom* of the compact; we have, from the *necessity*, fairly introduced it; and, from its *freedom*, consequentially established every mutual term and condition of it. So that now if the reader should ask, "Where this charter, or treaty of convention for the "union of the two societies, on the terms here deli-

* See Hooker's Eccl. Pol.

"vered,

" vered, is to be found?" We are enabled to give him a satisfactory answer. It may be found, we say, in the same *archive* with the famous ORIGINAL COMPACT between magistrate and people, so much insisted on, in vindication of the common rights of subjects. Now when a sight of this compact hath been required of the defenders of civil liberty, they held it sufficient to say, that it is enough for all the purposes of fact and right, that such original compact is the only legitimate foundation of civil society; that if there were no such thing *formally* executed, there was *virtually*; that all differences between magistrate and people ought to be regulated on the supposition of such a compact; and all government reduced to the principles therein laid down; for that the happiness of which civil society is productive, can only be attained by it, when formed on those principles. Now, something like this, we say of our ALLIANCE BETWEEN CHURCH AND STATE. But we say more; for,

## CHAP. IV.

THAT THE CHRISTIAN RELIGION IS, OF ALL OTHER, BEST FITTED FOR SUCH AN ALLIANCE WITH THE STATE AS MAY BE MOST PRODUCTIVE OF THEIR MUTUAL ADVANTAGE: AND THAT OUR OWN IS THE MOST PERFECT OF ALL CHRISTIAN ESTABLISHMENTS.

WE have been the fuller in this account, in order to shew our adversaries, how unreasonable, and even impolitic they are, when, in their ill humour with *establishments*, they chuse to pick a quarrel with *their own*; where the national religion is on a footing exactly agreeable to the nature of a *free convention*

*between church and state*, on the principles of the laws of nature and nations. A felicity (they should have known,) which scarce any other people on the face of the earth can boast of: for let them look around, and tell us, if they can find another place where the state doth not encroach on the church; or, what is indeed much the commoner, the church on the state. In *England alone*, the original terms of this convention are kept up to so exactly, that this account of *the Alliance between Church and State* seems rather a copy of the church and state of *England*, than a theory, as indeed it was, formed solely on the contemplation of nature, and the unvariable reason of things: and had no further regard to our particular establishment, than as some part of it tended to illustrate these abstract reasonings. So that, fortunately for the motive I had in writing, our adversaries are cut off from all subterfuge. For they can neither condemn this theory as a visionary *Utopia*; nor approve it as reasonable and fit for practice, and yet think themselves at liberty to carry on their opposition against their own country establishment: because these *two* prove to be one and the same. If in a few minute things they disagree, this disagreement will perhaps, by some, be ascribed to the unfinished parts of an excellent model, which the misfortunes of Edward VI.'s reign prevented from being carried to perfection. For then it was that this alliance between the *protestant* church of *England* and the state was made; on the natural dissolution of the alliance, between the *popish* church and it. At which time, had not the hypocrisy of some complying churchmen; the domestic quarrels in the administration; the factions which fomented those quarrels, and the immature death of that hopeful prince, intervened, we might have expected, they will say, the completest

scheme of an ALLIANCE that human policy and pure religion could have produced. Nor have the succeeding ages been remiss or negligent, as fit opportunities offered, to remedy those irregularities. Of this honour, no small share is due to the *clergy*; so false are the calumnies of their enemies, that *they are always backward in reformations*. For it was the *clergy* which, in the reign of *Charles* the Second, freely gave up to the legislature their ancient practice of taxing themselves. In which they acted with the greatest justice as well as generosity. For the custom of taxing themselves arose from the claim to their revenues by divine right: whereas these being, indeed, the state's donation, an *endowment* at the time of the ALLIANCE, the state had a right to tax them as it did its *lay-fees**. However this be, as there have been many and

* Quoad reditus qui vulgo spirituales dicuntur, magna ecclesiarum pars, cum decimis & oblationibus, laïcis in feudum datæ fuerant a Pippino, Carolo Magno, & Ludovico Pio, cum consensu ecclesiæ Gallicanæ; quæ deinde ecclesiasticis viris concessæ sunt ex permissu regum. Itaque principes non destituti sunt ratione ut contendant servitia & debita feudorum in hujuscemodi reditibus imposita, extincta non esse vi consensus regii adhibiti liberalitati laicorum erga ecclesias, qui ea ad ipsas transtulerunt.—Legitimum et æquum est, quod feuda ad ecclesiam pertinentia iisdem legibus subjecta sunt, quibus cætera tenentur.—Permissus est deinde principibus usufructus redituum ecclesiæ vacantis, contra quam priscæ regulæ statuerunt. Si quis vero inquiret in causas tam magnæ immutationis, is reperiet eam esse profectam ex immutatione quæ facta est in conditione & qualitate bonorum ab ecclesia possessorum. Quemadmodum enim in republica quoddam bonorum genus extat quod vulgo *feudum* vocant. Incognitum Romano juri, ideoque novis constitutionibus & antiquarum legum dispositioni contrariis inductum, sic, cum ecclesiæ regum beneficio donatæ fuissent bonis hujuscemodi, necessarium prorsus fuit, ut illæ possiderent feuda iis conditionibus quas in prima feudorum origine invexit publica utilitas. Ergo personæ ecclesiasticæ quæ feuda possidebant, per consequentiam fiebant vasalli regum, illisque

and long, and, as it would seem hitherto, fruitless debates, concerning *tythes*, *bishops seats in parliament*, *spiritual courts*, *convocation*, and *supremacy*, in which men have run into the most contrary conclusions, I judged it not amiss to draw out *corollaries* concerning each of them, that may possibly contribute something towards the putting an end to these ill-founded controversies.

Such then is the uncommon excellence of our happy constitution: And, struck with the beauty of so just and generous a plan of power, a late noble writer, who regarded it no otherwise than as it concerned the state, thus forcibly expresses himself.—" Some men " there are, the PESTS OF SOCIETY I think them, who " pretend a great regard to religion in general, but " who take every opportunity of declaiming publicly " against that *system of religion*, or, at least, against " that CHURCH ESTABLISHMENT which is received in " *Britain* *." In truth, this is bearing hard on our new guardians of liberty; who, when they have generously taken up an office they were not called to, and asked nothing for it but the modest title of FREE-THINKERS, are to be called *pests of society* by the POLITICIAN; and branded with the odious name of *infidel* by the clergy. However, the author above quoted cannot deny, but that *they pretend a great regard to religion in general:* and this justice is due to them, that they

illisque præstare tenebantur homagium & juramentum fidelitatis, itemque certum militum numerum juxta valorem feudorum. Unde sequitur necessario regem post obitum episcopi quod eo casu feudum vacet, illud ad se recipere posse ac retinere, donec novus episcopus investituram feudi receperit, homagiumque ac juramentum fidelitatis præstiterit. Interim tamen regi competit jus quoddam fruendi reditibus, dum custodia durat. Marca, l. viii. c. 19. 22. F. T.

* Dissert. on Parties, p. 148.

they are no enemies to the *name:* for that, I suppose, he means by *religion in general. Ideal christianity* they could well away with: *real christianity* somewhat offends them. It does more so under the form of a *society:* but most of all when that society becomes *established.* They could be well content to accept it under the fashionable notion of a divine *philosophy in the mind*; especially if that philosophy were to be received in England on the footing which, Cicero tells us, the Greek philosophy was received in Rome; DISPUTANDI CAUSA, NON ITA VIVENDI *. But to take it for service, and with the magistrate's stamp to make it current, revolts these great and free spirits. So that, even to those ingaged in the cause of a court and ministry, or intrusted in the service of a church, they must speak their mind against so intolerable a grievance. However, a *Religion*, blessed be God, we yet have; and even an *established* one. It enjoys this advantage for the service it does the state; and that it may no longer be envied the privileges, consequent thereto, I shall now shew, that the CHRISTIAN, of all religious societies, is best fitted to assist the civil magistrate, who is the *minister of God unto us for good.*

I. Its superior excellence in this service, above the *ancient* PAGAN RELIGIONS of Greece and Rome, is seen in its being infinitely better fitted than those to fall into a firm and lasting society. It is to be observed, that unity in the object of faith, and agreement to a formulary of dogmatic theology, as the terms of communion, is the great foundation and bond of a religious society. Now, in all the Pagan religions, there was only conformity in national cere-

* Orat. pro Mar.

monies;

monies; there being no room for the object of faith, or a formulary of dogmatic theology; for as to matters of belief and opinion, it was not judged of moment to determine whether their Gods were real persons, or only the symbols of natural powers. And the few speculative points taught in their MYSTERIES, were altogether subservient to the interests of morality. Hence it happened, that these societies, being without their true foundation and support, were, when they became *established*, soon lost and absorbed in the state *.

II. As *christianity* was superior to *Pagan religion*, in its CAPACITY for forming a society: so it is superior to pure NATURAL RELIGION, in being thus actually formed, by *divine* appointment; while natural religion needed to be formed only by *human*. Were there no other evidence that christianity composed a society of *divine* appointment than only this, that the body of the faithful is called the KINGDOM of Christ, *this* would be sufficient to convince those who know the general meaning of the word, and the peculiar use of it in the Jewish economy. But when, in consequence of his right of KINGSHIP, Jesus, and, by his substitution, the apostles, go on to appoint officers, degrees of subordination, and exercise of power, one may well wonder at the strength of that complexion which can hold out against such force of evidence. But something, you must think, there was, which made it worth their while not to be convinced. They imagined, if they could but persuade us, that christianity made no society of *divine* appointment, it was no society *at all*; and consequently a *creature of the state*. This

* See The Divine Legation of Moses, b. ii. sect. 1. and sect. 5. sub fin.

was

was so flattering a conclusion, that they may well be excused a little obstinacy in encountering what obstructed their advances to it. But we have shewn, that let the point of divine institution be determined how it will, yet *Religion* naturally and necessarily composes a *society*, sovereign, and independent of the civil. Very idly therefore were their pains employed, had they proved what they attempted. But to persist against evidence and reason, in support of what can do them no service, must render them doubly ridiculous.

III. Again, as the *Christian* is superior to *natural* religion in being a society by divine appointment; so it is superior to the JEWISH, in being perfectly free; and independent of the *civil**. The JEWISH religion was, like the *true natural*, which it ratified, essentially fitted to compose a society: and, like the *Christian* (of which it was the first rudiment) made a society by divine appointment. But then unlike the *Christian* in this, that it was not left independent of civil government, to unite with it, at its pleasure, on terms agreed upon; but was, for great and wise reasons †, at once united to it by God himself. Which also God was pleased to do, not by way of ALLIANCE, as between two bodies that were to continue distinct ‡; and might be separated, from whence results an *established* religion of the nature above ex-

* Sunt ab ipso Deo tum religio tum imperium ita constituta, ut & vera religio sine adjuncto sibi imperio, & verum ac legitimum imperium sine adjuncta sibi vera religione esse possit. Bossuet, l. v. c. 5. F. T.

† See The Divine Legation of Moses, b. iv.

‡ Veluti in unum coierunt Christiana fides & regum imperium, nullo partium detrimento, adeo ut regni summo jure nihil per Christianam professionem decesserit—Conjunctæ quidem fuerunt in hoc regno duæ illæ potestates, ecclesiasticæ & civiles, sed sine confusione personarum & munerum. Marca, l. ii. c. 1. F. T.

plained,

plained, but by mutual conversion into one another, and perfect INCORPORATION. By which, both church and state, under a separate consideration, were lost, and a new species of government arose from it, that was both and neither. For the state, whose object is a WHOLE, having here God himself for its magistrate, and consequently being administered by an extraordinary providence, carried its care to *individuals:* And religion, whose object are INDIVIDUALS, having here the magistrate for God, and consequently religious worship having a *public part*, its care was extended to the *whole*. Yet this being truly to be reckoned in the *genus* of those unions which, we have shewn, necessity of state made of so universal practice, we may be allowed to draw an argument from thence for the justice of such unions, whereby a church becomes *established*. For if the advocates of civil liberty may, without suspicion of sophistry or fanaticism*, bring the example of God, in the HOREB CONTRACT, to justify men's common right to erect free republics; I see no reason why the same example, in the union of the Jewish church and state, should not be thought of equal force to vindicate the equity of that *alliance* between the two societies which is made by men; and is productive of *an established church*.

But the CHRISTIAN RELIGION was not only left independent of the state, by not being united to it like the *Jewish* (and being so left, it must needs, by the law of nature, be independent); but its independency was likewise secured by divine appointment, in that famous declaration of its great Founder, MY KINDGDOM IS NOT OF THIS WORLD: which bears this plain and obvious sense, "That the *kingdom of*

* See Algernon Sidney's Discourses concerning Government, passim.

"*Christ*,

" *Christ*, to be extended over *all mankind*, was not " like the *kingdom of God*, confined to the *Jewish* " *people*, where religion was incorporated with the " state; and therefore of *this world*, as well in the " exercise of it, as in the rewards and punishments " by which it was administered: but was *indepen-* " *dent* of all civil communities: and therefore neither " of this world as to the exercise of it, nor as to the " rewards and punishments by which it was admi- " nistered." That such is the true meaning of this mistaken text, appears from the delusion in which his followers then were, *viz.* that the *Gospel* was to be administered according to the economy of the *law*. But whoever imagines that from *this independency by institution* the church cannot convene and unite with the state, concludes much too fast. We have observed, that this property, in the *kingdom of Christ*, was given as a mark to distinguish it from the *kingdom of God*. That is, it was given to shew, that this religion extended to all mankind; and was not confined, like the Mosaic, to one only people. Consequently, that very reason which made it proper for the Mosaic religion to be united, by divine appointment, to the state, made it fit the Christian should be left free and independent. But for what end, if not for this, To be at liberty to adapt itself to the many various kinds of civil policies, by a suitable union and alliance: whereby the famous prophecy of Isaiah might receive its ultimate completion *: " Thus saith the Lord God, " Behold I will lift up my hand to the GENTILES, " and set up my standard to the *people*—and KINGS " SHALL BE THY NURSING FATHERS, AND THEIR " QUEENS THY NURSING MOTHERS †:" An *alliance*,

* See The Divine Legation, b. vi. sect. 6.

† Isaiah, chap. xlix. 23. See also note [O] at the end of this Book.

then,

then, we must conclude, the Christian church was at liberty to make with the state, notwithstanding this declared nature of *Christ's kingdom.* So far is indeed true, that it is debarred from entering into any alliance with the state that may admit any LEGISLATOR into *Christ's kingdom* but himself: which would, indeed, *make* Christ's *kingdom of this world.* But, by our *alliance,* no such power is granted by one of the parties, or usurped by the other, as hath been proved in the Corollary concerning the SUPREMACY. And therefore an *established* religion is no violation of this famous declaration.

Such then is the nature of CHRIST'S KINGDOM. It is essentially framed to compose a firm and lasting SOCIETY; it is formed into a SOCIETY by divine appointment; and, in order to fit it for public service, it is, both by nature and institution, declared sovereign, and independent of civil government, that it may adapt itself by free alliance, to the various kinds of human policies. And though from this its *nature* alone, it cannot be proved to be of divine original; yet so much may be easily shewn, that, had it not *this nature,* it could not have *that original.* For if Religion were designed (as no Religionist can doubt) to promote our happiness here, as well as to procure for us greater hereafter, it will follow, that if that religion, which pretends to be the last and consummate revelation of the will of God to man, be not a real *society* and *independent,* its pretences are false and deceitful: because the greatest temporal good from Religion is procured by its becoming NATIONAL; but *national* it cannot be, but through alliance with the state; and no reasonable alliance can be made but between two sovereign and independent societies.

Hence

Hence may be seen the folly of those *sects*, which, under pretence that Christianity is a spiritual Religion, fancy it cannot have rites, ceremonies, public worship, a ministry or ecclesiastical policy *: Not reflecting, that without these, it could never have become NATIONAL; nor consequently have done that service to the state which, of all religions, the Christian is most capable of performing.

But we are not to carry off this honour, so fairly won for our Religion, without a warm attack from the famous adventurer of Geneva, who crosses our way, and cries out to us to prepare for the combat.—"I believe (says M. Rousseau †) that in developing "HISTORIC FACTS, under this point of view, one "might easily refute the opposite sentiments of BAYLE "and WARBURTON, the first of whom pretends, that "NO SORT of Religion is useful to the body politic; "while the other, on the contrary, holds, that CHRIS-"TIANITY is its most firm support. One might prove "against the first, that there never was a civil society "of which *Religion* did not serve for the foundation; "and against the second, that the CHRISTIAN RE-"LIGION is, at bottom, MORE HURTFUL THAN BE-"NEFICIAL TO THE FIRM CONSTITUTION OF THE "STATE."

Here I must do our *Citizen* the justice to own that he has not misrepresented me, as he does where

* See note [P] at the end of this Book.

† Je crois qu'en developant sous ce point de vue *les faits historiques*, on refuteroit aisement les sentimens opposes de Baile & de Warburton, dont l'un pretend que nulle religion n'est utile au corps politique, & dont l'autre soutient au contraire, que le Christianisme en est le plus ferme appui. On prouveroit au premier que jamais etat ne fut fondé que la religion ne lui servit de base, et au second que la Loi Chrétienne est au fond plus nuisible qu'utile à la forte constitution de l'Etat.—Du Contract Social, Chap. viii. p. 192.

he

he makes me hold the direct contrary to the main principle of my book, namely, that *Politics and Religion have one common object**. He may, indeed, have misrepresented Bayle; but him, I am not concerned to defend. As to his censure of me and of Christianity, it was natural for one who had pretended to shew that CIVIL SOCIETY itself was hurtful to humanity, to hold that CHRISTIANITY was so likewise. Or, was this intended for a secret recommendation of our *holy faith*, that it will afford no support to an invention so fatal to mankind, as was *civil society?*

But his intention concerns himself, not me: I have only to examine, how he supports his assertion against the Author of the *Alliance*.—"To make myself thoroughly understood (says he) I have nothing to do but to give a little more *precision* to the too vague ideas of RELIGION, as they relate to my subject†."

He had already given a notable specimen of his *precision*, in the entrance on this atchievement; where promising to overturn my assertion, that CHRISTIANITY *is the most firm support of civil society*, he proposes to do the feat, by HISTORIC FACTS; that is, as we shall see presently, by ex- "posing the mischiefs done to society by the ABUSES "and CORRUPTIONS of Christianity." I but just mention it, to shew, how early his sophistry begins to work. But now for his *more precise ideas of Religion*.

"Religion, considered in its relation to Society, is "either general or particular; and may also, like

* Il ne faut pas de tout ceci conclurre avec Warburton que la politique & la religion aient parmi nous un objet commun, p. 59.

† Pour achever de me faire entendre, il ne faut que donner un peu plus de *précision* aux idées trop vagues de religion relatives à mon sujet, p. 193.

"society,

" society, be divided into two specieses; that is to " say, the RELIGION OF A MAN, and the RELIGION " OF A CITIZEN. The first, without temples, altars, " or rites, and confined to a worship of the supreme " God, merely interior, and to the eternal obliga- " tions of morality, is the pure and simple religion of " the Gospel; true Theism; and that which one " may call *divine natural Right*. The other, con- " fined to a particular country, gives, to that coun- " try, its gods, who are the proper and tutelary patrons " of it. It has its doctrines, its rites, its exterior " worship prescribed by the laws; all out of this pale, " are to those within, infidels, strangers, and Barba- " rians. It extends not the duties and devoirs of " men beyond its altars. Such were all the religions " of the first nations. To which one may give the " name of *Divine-Civil, or positive, Right* *."

So strange a heap of nonsense and misrepresenta- [illegible], sure never came till now, even from the pen of [illegible] *modern French philosopher*. Here, we have the [illegible]*pel* confounded with *Natural Religion*, and *Re-* [illegible]*ion* with *Polytheism*. But it is not so much his [illegible] to Christianity (of which however he appears to

* La religion considérée par rapport à la société, qui est ou generale ou particuliere, peut aussi se diviser en deux especes, savoir, la Religion de l'homme & celle du citoyen. La premiere, sans temples, sans autels, sans rites, bornée au culte purement interieur du Dieu Supreme & aux devoirs eternels de la morale, est la pure & simple religion de l'evangile, le vrai théisme, & ce qu'on peut appeller le droit divin naturel. L'autre, inscritte dans un seul pays, lui donne ses Dieux, ses patrons propres & tutelaires: elle a ses dogmes, ses rites, son culte exterieur prescrit par les loix: hors la seule nation qui la suit, tout est pour elle infidelle, etranger, barbare; elle n'étend les devoirs & le droits de l'homme qu'aussi loin que ses autels. Telles furent toutes les religions des premiers peuples, auxquelles on peut donner le nom de droit divin civil ou positif. p. 193.

have a *philosophic* share), as his abhorrence of CIVIL SOCIETY, that makes him thus reverse and confound all ideas; and this, he calls, rendering them more PRECISE. What, in the first place, he would infer being plainly this, That besides all those advantages of the *state of nature* over *civil society* (so largely insisted on in his book called Discours sur l'Origine de l'Inegalité parmi les Hommes); this blessed *state* has yet a further advantage, *viz.* that pure Religion is to be found only there; while polytheism and idolatry overrun all the world besides. For I would advise the Reader, that as often as he has to do with our CITIZEN OF GENEVA, he would observe the same caution which an old debauchee recommended to his physician, that whatever was the particular complaint, he would always have an eye to the p——. So whatever be the subject of our philosopher's meditations, whether education, morality, laws, romance, or religion, we should still have an eye to that infection of the mind catched amongst the *Cafirs* at the *Cape of Good Hope*, which has poisoned his constitution, and given him a horror of *civil government*; and is always breaking out in numberless odd vagaries, whenever he sits down to speculate. Without this, we should be utterly at a loss to account for the astonishing absurdities of these few lines.

1. He says, that the RELIGION OF A MAN, as distinguished from the *Religion of a citizen, is without temples, altars, or rites, and confined to a worship of the Supreme God merely interior.*—This idle fancy I have confuted at large, in the fifth chapter of the first book of this discourse; wherein I have shewn, that what he calls the *religion of man*, or pure natural religion, cannot support itself without *external*

*acts and offices* of devotion, as well as with *internal meditations.* I have shewn it, I say—from the *compound nature* of man—from his duty to make an *open* profession of the relation in which he stands towards his Maker—from the fitness of returning thanks in *common*, for *common* blessings.

2. He says, that *this religion, without temples, altars, or rites,* IS THE SIMPLE RELIGION OF THE GOSPEL. So gross an insult on common sense has, I think, never before been offered, even in these times of worse than brutal licence.—Is not the *Religion of the Gospel* the Religion of Jesus Christ? and did not Jesus Christ institute the RITES of *baptism* and the *last supper?* Did he not say he would *build a* CHURCH? Is not a CHURCH a *Society* of Christians? And can any *society* subsist without an external administration?

3. He holds, however, that this TRUE THEISM, as he calls it, is the same with the GOSPEL in *doctrine* at least, if not in *discipline.* In which, perhaps, his ignorance, here, may be more excusable than his ill faith, before. The great principle of TRUE THEISM is, that *God is, and that he is a rewarder of them who seek him*; The great principle of the GOSPEL is, that he will reward those who seek him with *the free gift of immortality.*

So far, as to what he calls *the Religion of Man.* Come we next to his RELIGION OF THE CITIZEN. And what he says here is no less fruitful in his usual flowers of speech, with which he is accustomed to strow the way, whenever he is disposed to lead Religion in triumph; I mean, absurdity and falsehood.

*The Religion of the Citizen* (says he) *is in force only in a particular country, it gives to that country*

*its gods, who are the proper and tutelary patrons of it.*—This is the Polytheism of the GENTILES.—*It has* (says he) *its doctrines, its rites, its external worship prescribed by the laws. All out of this pale are, to those within, infidels, strangers, and barbarians.* —This is his description of the LAW OF MOSES: and agrees with no other in the ancient world; all of which gave allowance to an universal toleration or intercommunity of worship. Yet, of these two opposite religions, our candid Citizen has made one and the same. And, as before, *pure Theism was* (in his account) *the same with the* GOSPEL; so now, *Polytheism and Idolatry is the same with the* LAW. Indeed, where he says, that this *Religion of the Citizen doth not extend the duties and devoirs of men beyond its altars*, he fills up the measure, and vilely calumniates both PAGANISM and JUDAISM.

But he had left out, it seems, something in his division, where he distinguished between the *religion of man* and the *religion of the citizen*; and therefore now patches up matters by the introduction of a third species, which he calls, *the religion of the priest.* "There is (says he) a third species of religion still "more whimsical; which giving to men two legisla- "tures, two heads, two countries, puts them under "subjection to contrary duties, and prevents them "from being, at the same time, good subjects to "God and to the magistrate. Such is the religion of "the Lama, the Japonese, and the Roman Catholics. "This we may call *the religion of the priest**."

* Il y a une troisieme sorte de religion plus bizarre, qui donnant aux hommes deux législations, deux chefs, deux patries, les soumet à des devoirs contradictoires, & les empêche de pouvoir être à la fois devots & citoyens. Telle est la religion des Lamas, telle est celle des Japonois, tel est le Christianisme Romain. On peut appeller celle-ci la religion du prêtre. P. 193, 194.

And

And now let us see, for what end this HONEST ACCOUNT OF RELIGION was given us by our virtuous Citizen of Geneva. In general, it is enough for him if he can but discredit REVELATION, but he is here labouring at one particular topic of discredit; its uselessness or mischief to civil society.—I had said, that *Christianity was its most firm support.* He denies the proposition; and confutes it by this way of reasoning—" All Religion (says he) is comprised within these three specieses.—1. *A worship merely interior*, which affords not one single mark of religion—2. *A* POLYTHEISTIC *worship*, which damns all out of its pale—And *Popery*, which brings in an *imperium in imperio.*" Now, says he, these are all *more hurtful than beneficial to the firm constitution of the state.* And so say I likewise. But he had promised to prove, against me, that the Christian Religion as delivered in the Gospel (the Religion which, I had said, was the most firm support of civil society) *is at bottom more hurtful than beneficial to it.* Now I affirm, and appeal to his own sober self against his other self, that NOT ONE of his *three specieses of Religion* is *Christianity as delivered in the Gospel*; nor can any one of them be called, but by the courtesy of England, even by the vague name of *Christianity.* So that here, a blind argument is lamely conducted, at a vast expence of truth and common sense. How much more compendiously and commodiously has the *New Historian of Great Britain* enforced the same charge against *Christianity.* He divides ALL RELIGION, not into three, but two, species, SUPERSTITION and FANATICISM. And who will pretend to say, that either of these can be serviceable to Society? The CHURCH OF ENGLAND, in particular, that *Janus bifrons*, which had seen both the *old and new world*,

he hath taught to play each part with great advantage; to turn its *fanatical* visage, when it opposes Popery; and to become *superstition*, when it sets its other face against the Puritans.

Thus our Citizen, by substituting three fantastic Mormos of his own raising for Gospel Christianity, he leaves my principle, of the *utility of this religion to civil society*, untouched. So that whatever evil influence his three impostures may have on society, my position is no way affected by it. However, let us hear him out. There are *curiosities* in his discourse, which one rarely meets with in common writers.

1. First then, he gives up his *third* species of religion, which brings in an *Imperium in Imperio*, as manifestly naught. And so do I.

2. The *second*, which he calls the *Religion of the citizen*, has in it (he says) something good, and something bad. "It is so far good, that "it unites divine worship to a love of the laws— "it teaches men, that the service of the state is the "service of the *tutelary God*—it is a species of "THEOCRACY.—But then it is bad in this, that it is "founded in error and lies. It renders men cre- "dulous and superstitious. It stifles the true worship "of the divinity, in a vain ceremonial. It is much "worse when, becoming exclusive and tyrannic, it "renders a people sanguinary and intolerant—when "it makes them think, they do a holy action in the "murder of those who deny their Gods—when it "puts them in a state of war with all others; a state "very pernicious to their own proper safety*."

His

* La seconde est bonne en ce qu'elle réunit le culte divin & l'amour des loix [et que faisant de la patrie l'object de l'adoration des

His spite to the Mosaic law (we see) has made him pollute its sanctity, by mixing and confounding it with Paganism; like him who, for a better purpose, *burnt dead men's bones on the altar of Bethel:* Out of this impure mixture he forms a fantom, compounded of *Polytheism*, a *Theocracy*, and *Intolerance*; which never yet existed together but in his own bewildered imagination. He equally belies both PAGANISM and the LAW: the first being founded in, and existing by, universal tolerance; and the other abhorrent of every species of idolatry. One thing is remarkable; it is, his calling Paganism, under a *tutelar deity*, a species of THEOCRACY. I had shewn, in *The Divine Legation of Moses*, that one of the most illustrious distinctions between the religion which he instituted and the several modes of Paganism, was this, that though Both go upon the common idea of a *tutelary God*, yet Moses went further, and proclaimed the God of Israel to be their KING; and, by so doing, put God's peculiar people properly under a THEOCRACY. This no Pagan lawgiver ever dared to attempt. I have explained the reason; a reason so much to the credit of the Mosaic institution. A *tutelary God* not implying an extraordinary or equal Providence, a Gentile lawgiver might, for the sake of the civil uses of it, venture to

des citoyens] elle leur apprend que servir l'etat c'est en servir le Dieu tutelaire. C'est une espece de theocratie.—Mais elle est mauvaise en ce qu'etant fondée sur l'erreur & sur le mensonge [elle trompe les hommes] les rend crédules, superstitieux, & noye le vrai culte de la divinité dans un vain ceremonial. Elle est mauvaise encore quand, devenant exclusive & tyrannique, elle rend un peuple sanguinaire & intolerant [en sorte qu'il ne respire que meurtre & massacre]; & croit faire une action sainte en tuant quiconque n'admet pas ses Dieux. Cela met un tel peuple dans un état naturel de guerre avec tous les autres, tres nuisible à sa propre sûreté. P. 194, 195.

to proclaim. Had he gone further, and made the *tutelary God* the NATIONAL KING, his imposture had been dedected; because such a system unavoidably drew after it an *equal Providence*. Moses advanced thus far, and by constituting a THEOCRACY, hath established the truth of his pretensions. To evade this reasoning, the Citizen of Geneva insinuates, that the admission of a *tutelary God* constitutes a THEOCRACY.

Here let me observe, how much the author of the *Alliance* has, in another work, distressed this whole tribe of unbelievers of the *bon ton*, sprung from our English *Freethinkers*, and new-christened, in France, under the name of PHILOSOPHERS, an' please you. The Author * had explained the nature of the Jewish *Theocracy*; and from thence, had not only vindicated the *reasonableness* of the whole Jewish law from the objections of unbelievers; but had shewn how this very form of government itself distinguished and ascertained its divine original above all the pretences of Paganism: whose various modes of religion were built on the worship of *tutelary Deities*. This alarmed our PHILOSOPHERS. However, it furnished their stale declamations with a fresh topic, an abusive misrepresentation of this singular species of divine government, by calling all worship of *tutelary deities*, THEOCRACIES. M. Rousseau leads the way; and he assures us that this worship is, UNE ESPECE DE THEOCRATIE. M. Voltaire has taken the hint, and even borrowed the words of our Citizen—"Il semble (says he) que "la plûpart des anciennes nations aient été gouver-"nées par UNE ESPECE DE THEOCRATIE †." After

* See The Divine Legation, book v. sect. 2.

† La PHILOSOPHIE de l'Histoire, p. 51.

these,

these, comes an impious and miserable Rhapsodist *, who undertakes to shew, on the same ridiculous abuse of words, That *all the religions of the East were* THEOCRACIES. So that, from the joint labours of these Worthies (the PHILOSOPHERS) we are made to believe that this pretended THEOCRACY of Moses was only productive of superstition in religion, and of tyranny in the state. There is, indeed, a small circumstance, which may be thought a little to discredit this noble discovery. Our PHILOSOPHERS, with all their superior erudition, appear to be ignorant, That the Greeks, so slender was their conception or idea of a THEOCRACY or a THEOCRATIC GOVERNMENT, had not, in all their comprehensive language, so much as a *term* to denote the *thing*. And JOSEPHUS, where he attempts to explain the nature of this species of government (the *Jewish theocracy*), is forced to apologize for the liberty of inventing a *new name* to express his meaning †.

But, to return, we come at length to our citizen's *first* species of religion, the *religion of man, or christianity*; and here his purpose is to prove more directly against me, "That even *christianity*, as delivered in the gospel, is not the most firm support of the state." This were indeed to the point, had he not here again presented us with another of his fantoms under that sacred name. But the reader shall not be defrauded of his own words.——"There re-"mains the *religion of man, or of christianity*, to be "considered; not that which is now called so, but

* In a book called, Recherches sur l'Origine du Despotisme Oriental.'

† — ὡς δ' ἄν τις εἴποι βιασάμενος τὸν λόγον ΘΕΟΚΡΑΤΙΑΝ ἀπέδειξε τὸ πολίτευμα. Cont. Ap. lib. ii. sect. 16.

"that

" that which we find in the GOSPEL, a religion alto-
" gether different. By means of this religion, holy,
" sublime, and true, MEN, the children of the same
" God, see and own themselves to be BRETHREN;
" while the spiritual society which unites them is
" never to be dissolved, not even in death. But this
" religion having no PARTICULAR RELATION to the
" body-politic, leaves the laws without any other
" force than what they draw from themselves, with-
" out adding any thing of its own; whereby one of
" the principal bonds of a particular society (of the
" civil kind) remains without effect. Further, it is
" so far from attaching the hearts of citizens to the
" state, that it withdraws them, as it were, from all
" terrestrial things; than which, I know nothing more
" contrary to the spirit of society*."

He owns, (we see) *it appears by the gospel, that all men are brethren, the children of the same God, and united in a society not to be dissolved even in death.* Now, if the *same men* be members both of this more lasting society, and of the *civil* likewise, must they not aim, in proportion to the dignity of each society, equally to advance the interests of both? Must not that acknowledged *relationship* of brethren in the *religious* society strengthen their at-

* Reste donc la religion de l'homme, ou le christianisme, non pas celui d'aujourd'hui, mais celui de l'EVANGILE, qui en est tout-à-fait different. Par cette religion sainte, sublime, veritable, les hommes, enfans du même Dieu, se reconnoissent tous pour freres, & la société qui les unit ne se dissout pas même à la mort. Mais cette religion n'ayant nulle RELATION PARTICULIERE avec le corps-politique laisse aux loix la seule force qu'elles tirent d'elles-mêmes sans leur en ajouter aucune autre, & par là un des grands liens de la société particuliere reste sans effet. Bien plus: loin d'attacher les cœurs des citoyens à l'etat, elle les en detache comme de toutes les choses de la terre: je ne connois rien de plus contraire a l'esprit social. P. 195.

tachment

tachment to each other as fellow-members of the same *civil* community? And when they are once persuaded (which every man of common sense will soon be) that to advance the happiness of civil society is the best means of securing the interests of that other, which is never to end, will not their very zeal for their religion dispose them to as warm an adherence to the service of the state? All that can be said in favour of our citizen's ridiculous paradox being only this, that a true christian will prefer the *real* interests of the religious society to the *apparent* interests of the civil, whenever they are made to clash: for none but *real*, and *merely apparent*, can possibly come into competition. But this, on the very principles of our citizen of Geneva, will be so far from being hurtful to the state, that it will be, in the highest degree, beneficial to it. He confesses that the religion of the gospel is *holy, sublime, and true:* in whatsoever matters, therefore, the administration of civil policy clashes with the injunctions of this religion, we may be sure that, so far forth, the civil administration is *prophane, base, or erroneous:* the removal of all which qualities from society directly tends to promote its happiness. For UTILITY AND TRUTH EVER COINCIDE. It is so far then from being true, that GOSPEL RELIGION is of no service to the state, that it is of the greatest, by affording an unerring rule, ever at hand to apply, for the administration of civil policy.

But, as hath been observed before, we must seek for the key to all these strange whimsies, in our citizen's *Discours sur l'Origine de l'Inegalité parmi les Hommes.* The truth is, he regards CIVIL SOCIETY as a thing essentially evil; and so, never to be served or benefited by a religion *holy, sublime, and true*; for

for as he in the comedy says, "*The man doth fear God, however it seems not to be in him, by some large jests he will make* *;"—such as the farce of the *Curé of Savoy*, and his own drollery upon *miracles* In the work we are now upon, he is a little shy of his secret. But in his *Letters from the Mountain*, apologizing for this part of the *Social Contract*, (where, in the strongest terms, he taxes the gospel with being pernicious to society†) he says,—"Far from "taxing the pure gospel with being pernicious to "SOCIETY, I find it, in some sort, too sociable, too "strongly embracing the whole human kind, to be of "use to a LEGISLATION WHICH MUST BE EXCLU-"SIVE; a religion rather inspiring *humanity* than "*patriotism*, and tending rather to form MEN than "CITIZENS‡."—Here the secret is out. By *society*, we see, he means NATURAL SOCIETY (the state he so much extols in his *Discours sur l'Origine de l'Inegalité*, &c.); and by a LEGISLATION WHICH MUST BE EXCLUSIVE, he means CIVIL SOCIETY. And were this all, we should have nothing to blame but his bad philosophy and his worse logic. He supposes, that what men call *patriotism* consists in doing all the good they can to their own country, though to the hurt and damage of all others. He mistakes. It is the MOB who so thinks. MEN hold it to consist in doing all the good they can to their own country, but without

* Shakespeare.

† Je ne connois rien de plus contraire à l'esprit social. P. 195.

‡ —Bien loin de taxer le *pur Evangile* d'etre pernicieux à la SOCIETE, je le trouve, en quelque sorte, trop sociable, embrassant trop tout le genre humain pour UNE LEGISLATION QUI DOIT ETRE EXCLUSIVE; inspirant l'humanité plutot que le patriotisme, & tendant à former des hommes plutot que des citoyens.——*Lettres ecrites de la Montagne*, Lett. I. p. 35.

hurt

hurt or damage to any other. He therefore, from his definition, concludes, and rightly, that patriotism and humanity are inconsistent: we, from ours, that they are consistent; just as our own preservation is, with universal benevolence,

" When God and nature link'd the general frame,
" And bad SELF-LOVE and SOCIAL be the same."

We both abound in our own sense; and, I suppose, with equal complaisancy. So far then nothing is morally amiss.

But when he begins to prevaricate—and surely he prevaricates very grossly, in this apology *from the Mountain*. Did his adversary, in *the plain**, accuse him of taxing the *pure gospel* with being pernicious to what HE calls, SOCIETY, and what others call, *the state of nature?* Was it not for his holding that the *pure gospel* was pernicious to an EXCLUSIVE LEGISLATION, which is the name he gives to *civil society?* Certainly with this latter defect: for it is in a discourse, written to confute the opinion of WARBURTON, where our citizen says, *the pure gospel is pernicious to society*.

But it is time to go on with his accusation of Christianity, as it is urged in his *Social Contract*.

This religion, he says, *has no* PARTICULAR RELATION *to the body-politic*. You may always with justice suspect the man who deduces the force of his argument from vague and evasive premisses. We know what is meant by one thing's being related to another. But nothing, I think, is meant by a *particular relation*, when thus employed, but *such* a relation as may best serve the user, to support a feeble system.——That the christian religion, as delivered in the *gospel*, has *a close and near relation* to the

* Lettres ecrites de la Campagne.

body-

body-politic hath been shewn just above, from our citizen's own account of christianity: but more especially from this whole discourse of the *alliance*, written for no other purpose than to shew how this *relationship* began, how it is carried on, and how it may be best improved to the advantage of BOTH SOCIETIES. How it began, has been explained at large in the third chapter of the first Book: where it is shewn to have arisen from the natural defect of civil society; which requiring, for its remedy, the assistance of religion, and this not being to be afforded but on conditions; from thence, a *relationship* necessarily arose between them. After this, what must we think of the man who can tell us, that *Christianity leaves the laws without other force than that which they draw from themselves, without adding any thing of its own?* Bayle delighted in extravagant assertions almost as much as our Citizen of Geneva; but he knew how to support them, and that, with a vigour of invention, and a profoundness of reasoning, which covered and secured them from an ordinary attack. Our citizen gives us his misbegotten PARADOXES, as the ostrich drops its young, exposed, abandoned, and left to shift for themselves: and then—as he says, to an argument of the Archbishop of Paris,—*Le lecteur en jugera. Pour moi, je n'ajoûterai pas un seul mot* *. But not only the internal virtue of religion in general, but the express precepts of the gospel, confute this strange man, when he says, *Christianity, having no particular relation to the body-politic, leaves the laws without any other force than what they draw* FROM THEMSELVES, *without adding any thing of* ITS OWN. —Doth not the founder of our holy faith say, *Render unto Cæsar, the things which are Cæsar's; and unto*

* Lettre à M. de Beaumont, p. 107.

*God,*

*God, the things that are God's*?* And this, in answer to a question concerning obedience to the laws of the civil magistrate, in a case where the support of society is most vitally concerned, namely, *the paying of tribute.* Where, we see, the GOSPEL no more *leaves the laws* to that only force which they draw from their own sanctions, than it *leaves the worship of God* to that only force which it draws from natural reason. Both *civil tribute* and *religious worship* are equally commanded by the sanctions of Christianity. St. Paul hath nobly paraphrased this text in his Epistle to the Romans †, where he explains the reason of *holy obedience* to the laws of the state. It is, he says, because all legitimate power comes originally from God, and is actually ORDAINED by him. Hence he makes the PRIEST and CIVIL MAGISTRATE to be equally the MINISTERS OF GOD; from which, he says, it follows that we must be subject to the state, as well as to the church, for CONSCIENCE SAKE: and thus, disobedience to the laws being disobedience to religion, he makes the punishment of both to be the same; concluding in the words of his divine master, RENDER *therefore to all their dues: tribute to whom tribute is due, custom to whom custom, fear to whom fear, honour to whom honour.* Yet christianity, as this man tells us, leaves the laws to their own inherent force, *without adding any thing of its own.*

* Matt. xxii. 21.

† "Let every soul be subject to the *higher powers*: For there "is *no power but of God:* the powers that be are *ordained* of "God. Whosoever therefore resisteth the *power*, resisteth the "ORDINANCE OF GOD: and they that resist shall receive to "themselves damnation.—For he is THE MINISTER OF GOD to "thee, for good.—Wherefore ye must needs be *subject*, not only "for wrath, but also *for* CONSCIENCE SAKE." Ch. xiii. 1, & seq.

But

But even this is not the worst. Christianity not only gives no *forensic* strength to society, but takes away much of its *natural.* So says our illustrious citizen.—"Further, christianity is so far from attaching the hearts of citizens to the state, that it detaches them, as it were, from ALL TERRESTRIAL THINGS. I know nothing more contrary than this, to the social spirit*." With what a commodious fallacy has our citizen here supplied his argument! It required him to shew, that christianity detached us *from society.* He could not do that; he therefore slips in, in the place of *society—all terrestrial things.* Had scripture condemned *society,* it had been something to his purpose; for then it might be supposed, that JESUS and the Citizen of Geneva had just the same opinion of civil society. But when a detachment from *earthly things* is commanded, it is to be understood COMPARATIVELY; and when the comparison is between *earthly* and heavenly, the command is reasonable and just. Let us see then how the sage propagators of our holy faith have conducted themselves on this delicate question. The learned apostle of the Gentiles directs his followers, that they *use this world* AS NOT ABUSING IT.—χρώμενοι ὡς μὴ καταχρώμενοι.—He adds a reason—*For the* FASHION *of this world passeth away* †;—σχῆμα τοῦ κόσμου τούτου—*the scene of things in this world.*—The sober advice here given, is to enjoy the blessings which Providence hath bestowed upon us in this state, with TEMPERANCE and JUSTICE: but not to make the most of them, in the sense and language of voluptuous and worldly men, who care

* Bien plus; loin d'attacher les cœurs des citoyens à l'Etat, elle les en détache comme de TOUS LES CHOSES DE LA TERRE: je ne connois rien de plus contraire à l'esprit social. P. 195.

† 1 Cor. vii. 31.

not

not how they get them, or how they employ them when gotten. He shews them, the bad bargain they are likely to make, when they chuse to run any risque in this adventure; since the shortness of human life makes these ill-purchased advantages of little value.—And is this, *detaching men from society?* Is it not rather *attaching* them, in the strongest manner, to its true interests? by keeping them within the duties of good citizens. Look abroad amongst men, and see, whether all the miseries brought upon states and nations, have not been owing to the neglect of this apostolic precept, when citizens *abuse* their situations in society, by letting loose their irregular passions and appetites, in pursuit of its fleeting advantages. Yet the legislating citizen of Geneva *knows nothing more contrary to the social spirit,* than THIS SPIRIT OF CHRISTIANITY. But, further, our citizen who, from these passages of St. Paul to the Corinthians, has apparently gathered what he collects concerning *the unsocial spirit of christianity,* either did not, or would not see, that the advice here given to the church of Corinth, concerning their *detachment from the world,* in its extreme sense, was a temporary direction, to enable them the better to bear an approaching persecution; which the apostle, by his prophetic spirit, foresaw they were to suffer under Nero. This, in so many words, he declares to have been his intent.—*I speak for your own profit**;—πρὸς τὸ ὑμῶν αὐτῶν συμφέρον λέγω.

But indeed, the GOSPEL is so far from looking coldly on society; or from aiming to withdraw our affections from this, or any other of our natural or civil *relations,* that it makes the first and principal

* 1 Cor. vii. 35.

part of religion to consist in imploring Heaven for the welfare of the state. St. Paul directing Timothy, a select minister of the word, in what manner he should form and regulate the discipline of the church over which the Holy Ghost had made him overseer, lays down this principal canon—*I exhort therefore, that* FIRST OF ALL, πρῶτον πάντων, *supplications, prayers, intercessions, and giving of thanks be made for all men:* FOR KINGS, *and for all that are in* AUTHORITY; *that we may lead a quiet and a peaceable life in all godliness and honesty* *. Now if this were to be done under a Pagan magistracy, which frequently persecuted, at best barely suffered the profession of Christ; how much greater were their effusions of worship to be, in behalf of that community, in which kings and magistrates became NURSING FATHERS of the church? Could any thing more strongly tend to endear civil government to good christians, than that a recommendation of the STATE and its interests to Heaven, was first and principally required of them, in their holy offices? All the writers on politics, I mean, writers of our author's size of belief, recommend it to the legislator, above all things, to cajole the people into a persuasion, that Heaven interests itself in the welfare of the community; as what would be the only lasting support of civil felicity. Now, the followers of Christ have embraced a religion which assures them, that Heaven doth, indeed, thus interest itself: and that the impression of this truth might be never obliterated, they are enjoined, as often as they assemble to their devotions, to make the first and principal part of them to consist in praying for the peace and prosperity of *kings and all in authority.*

* 1 Tim. ii. 1, 2.

Yet

Yet our citizen of Geneva tells us, that *he knows nothing more contrary to the* SOCIAL SPIRIT, *than the* SPIRIT OF CHRISTIANITY, *by detaching us from all earthly things.* What must we think? Was he in earnest? Certainly not in good earnest; since here, as in every other part of his discourse, he imposes on his reader that sophism, of all the most hacknied by every paultry trader in infidelity, THE ABUSE OF THE THING, FOR THE THING ITSELF. The question between us is, *What aspect Gospel-Christianity hath on civil society?* I have attempted to shew that it has the most benign and gracious. The citizen of Geneva says, *it has the most unfavourable, as it detaches men from all earthly things:* and to prove his bold assertion true, he gives us, instead of an honest account of that temper and moderation, which the GOSPEL prescribes in the USE of these things, a frightful picture of the superstitious freaks of Monks and Asceticks, of zealots and hypocrites, of fanatics and enthusiasts. This makes the commonplace of two or three of his following pages, containing an abusive paraphrase of his truth, "that Christianity "is a religion altogether spiritual; solely occupied in "the affairs of Heaven: the Christian's country not "being of this world*." To which, all, but that crew of idiots, are ready to reply—"*Nor is our master's kingdom of this world,* yet his providence governs and supports it. If, therefore, in imitation of this very providence, he bids us strive *to be perfect, as he in Heaven is perfect* †, will not his followers, in their sphere of citizens, contribute all they can to the

* Le christianisme est une religion toute spirituelle, occupée uniquement des choses du ciel: la patrie du chrétien n'est pas de ce monde. P. 196.

† Matt. v. 48.

happiness of that society in which Providence hath placed them? instead of becoming, as he pretends, *by this very aim at* PERFECTION, *detached from all the bonds of society* *." However, continues our citizen, if they should be induced to lend a hand to the public, *it will be with the utmost indifference as to the issue* †. If by *indifference*, M. Rousseau means (and if he does not mean so, he calumniates) that the good Christian will consider himself a citizen of the world, as well as of that country to which he particularly belongs; it is true; he will so consider himself: the consequence of which will be, that he will serve his own country, as far as may be done without injury or injustice to another. And what will be the consequence of this? Certain felicity to his own: for that state which observes the rules of justice and equity to all others, is most likely to have, in its turn, the same rules observed in favour of itself. But see the iniquity of these cavillers. Jesus says, *his kingdom is not of this world.* Hence his disciples say, *their country is not of this world:* and for this, christianity is calumniated, as rendering no support to the state; and old idolatrous Rome, which treated all other states with injustice, is preferred before it. Suppose now, Jesus had said, *his kingdom was of this world*; and his followers, in consequence, had maintained that *dominion was founded in grace*, as Pagan Rome did, that its universal sovereignty was founded in the horse's head under the capitol; would Christianity have got better quarter? We know it would not;

* A force d'être *parfaite*, elle manqueroit de liaison; son vice destructeur seroit dans sa perfection même. P. 196.

† Il fait son devoir, il est vrai, mais il le fait avec une profonde indifference sur le bon ou mauvais succés de ses soins. P. 196.

since

since the *sovereignty* of, what we call, Christian Rome, has been so often objected to us, in discredit of the gospel.—But the Christian's indifference it seems lies in this,—*that so be, he have nothing with which to reproach himself, he cares little for the issue of things* *. What? Has his *faith* rooted out all the social passions and affections which *nature* gave him? Hath he no regard for his parents, his children, or his posterity? Not the least, says our politician; for *if the state sink, he* BLESSETH GOD. He must needs be a bad citizen indeed, if, in this trying circumstance, he do not, like a man of spirit, BLASPHEME his Maker.—*Curse God, and die,* is, it seems, the heroic exhortation both of Job's paganised wife, and of our paganised citizen of Geneva. It had been in vain either for Job, or for me, to tell them, that if the true believer *blesses God* for the *severity* of his dispensations, as believing that they tend to a good issue, he makes Providence his friend; and, under this persuasion, he cannot but go on with the greatest alacrity to lend a helping hand to the shaken republic.—But *Christianity makes men dupes to hypocrisy; and a Cromwell, or a Catiline, would find an easy prey of such fellow citizens* †. Our philosopher must know very little of *Christianity*, if he has not learnt, that it affords the best means of *detecting hypocrisy*. Be this as it may, says the citizen of Geneva, yet *Christian charity doth not easily permit men to think evil of their neighbours* ‡: And this (he thinks) is enough to

* —Pourvu qu'il n'ait rien à se reprocher, peu lui importe que tout aille bien ou mal ici bas. P. 196.

† —Si malheureusement il s'y trouve un seul ambitieux, un seul hypocrite, un Catilina, par example, un Cromwell, celui-là tres certainement aura bon marché de ses pieux compatriotes. P. 196, 197.

‡ La charité chretienne ne permet pas aisement de penser mal de son prochain. P. 197.

shew how *easily* good Christians may be duped. But, before we can admit this consequence, he must prove, that when Christianity gives men charity, it takes away their understanding.——However, says he, admit that a Cromwell may sometimes be detected by the atrocity of his actions.—Well, and what then?—Why then, *it is God's good pleasure that we reverence his ordinance; this abused authority is the scourge of God to punish the offending children of men; and it will be deemed impiety to resist the tyrant's usurpation**. Does not the good Christian regard war, pestilence, and famine, to be the scourges of offended Heaven? and yet what good Christian, in his senses, ever scrupled to guard against, and to repel these evils? But I am tired of this trash; and should not have tired my reader with it, but to shew him, how miserably low this admired *philosopher* and *politician* has descended; and all for the sake of calumniating the Christian faith. What follows, however, is too curious to be overlooked. After all these complaints of the *noxious spirit of Christianity*, he confesses, however, that it makes good soldiers. This is something, however; for the *soldiery*, in time of need, is the great support of society. The citizens of this cast, says he, *march without reluctance to the combat: not one of them all ever dreams of flight; they do their duty, but without a passion for victory; they rather know how to die, than to conquer*†. What, now, can the reader conceive wanting, to reconcile

* Voilà un homme constitué en dignité; Dieu veut qu'on le respecte; bientôt voilà, une puissance; Dieu veut qu'on lui obéisse; le depositaire de cette puissance en abuse-t-il? C'est la verge dont Dieu punit ses enfans. On se feroit conscience de chasser l'usurpateur. P. 197.

† Les citoyens marchent sans peine au combat: nul d'entre eux ne songe à fuir; ils font leur devoir, mais sans passion pour la victoire; ils savent plutôt mourir que vaincre. P. 197.

our

our citizen to this part, at least, of the *spirit of Christianity?* A great deal. He wants such a spirit in it, as would make them swear, like old Fabius, and his band of Pagans, that *they would conquer and not die.* "That (says our SOBER CITIZEN) was, according to my taste, A MOST NOBLE "AND ILLUSTRIOUS OATH. They swore to return "victorious; and they kept their word. A Christian "army would never have done any thing like it. "They would have thought it, to be a tempting of "God*." It may be truly said of this unaccountable citizen of ours, that he is at a vast expence of morals, metaphysics, and politics; and all to enable him,

CUM RATIONE INSANIRE.

But now comes on his paroxysm. He is even angry at himself for the little grace he hath hitherto shewn to *Christianity*; and will, at last, demonstrate that the profession of it is even inconsistent with a FREE STATE.—"But I deceive myself (says he) when I "talk of a CHRISTIAN REPUBLIC. Either of these "terms excludes the other. Christianity preaches "up nothing but servitude and dependence. The "SPIRIT OF IT is too favourable to *tyranny*, for "her not always to take the advantage of it. TRUE "CHRISTIANS ARE MADE TO BE SLAVES. They "know it, and submit. This short life is, in their "eyes, of too little value to give themselves any "trouble about it†." This is a fearful picture of *Gospel*

* C'etoit un beau serment, à mon gré, que celui des soldats de Fabius; ils ne jurerent pas de mourir ou de vaincre; ils jurerent de revenir Vainqueurs; et tinrent leur serment. Jamais des chretiens n'en eussent fait un pareil; ils auroient cru tenter Dieu. P. 198.

† Mais je me trompe en disant une *Ripublique Chretienne*; chacun de ses deux mots exclude l'autre. Le Christianisme ne

*Gospel Christianity.* But what then, the virtuous Citizen of Geneva can never sure be a *calumniator.* However, let us not DESPAIR of the Christian Republic. This may be a monster bred of his own brain perhaps: or rather of his heart; and not that *wisdom* which sprang from the head of Jove.

The *slavery* which Christianity inculcates is derived, he says, from the *very spirit* of it. Now the *true spirit of Christianity*, he himself will confess, is to be found, if any where, in the NEW TESTAMENT. The APOSTLES, he will own, understood, if any men did, in what *this spirit* consisted. Let us have recourse then to their writings for our instruction on this important question.

The Citizen of Geneva, you see, affirms, that WHERE THE SPIRIT OF THE LORD IS, THERE IS SLAVERY. St. Paul, on the contrary, assures us, that *where the spirit of the Lord is, there is Liberty**. Which of them do you chuse to believe? Throughout the whole New Testament, the GOSPEL is characterised under the title of THE GLORIOUS LAW OF LIBERTY. It will be objected perhaps, that this word *liberty* always refers to the bondage and slavery of the *Mosaic Law.* It may be so. Nay, on this principle, I support my argument, "That Christianity naturally inspires the love both of civil and of religious liberty, it raises the desire of being governed by *laws* of our own making, and by the *conscience* which is of God's own giving." For consider, I pray you, *the spirit of the Mosaic law.* In religious matters, there was

prêche que servitude et dépendance. Son esprit est trop favorable à la tyrannie pour qu'elle n'en profite pas toujours. LES VRAIS CHRETIENS SONT FAITS POUR ETRE ESCLAVES; ils le savent, et ne s'en emeuvent gueres; cette courte vie a trop peu de prix à leurs yeux. P. 198.

* 2 Cor. iii. 17.

was no *toleration*; and in civil, the government being Theocratical, there was no *popular will*; in which the idea of liberty is supposed to consist. Now the being set free from *this law*, the apostolic writers call LIBERTY. They instruct us too in the nature of this *Christian liberty.*

1. In the RELIGIOUS PART, it indulges us in a free inquiry concerning the truth of the Gospel. The *Bereans* are distinguished and extolled by the sacred historian for this nobleness and generosity of mind. *These*, says he, *were more noble than those of Thessalonica, in that they received the word with all readiness of mind*—μετὰ πάσης προθυμίας, which here signifies, the laying aside of all Jewish prejudices—*and* SEARCHED *the Scriptures daily*, WHETHER THESE THINGS WERE SO*;—ἀνακρίνοντες τὰς γραφὰς—i. e. examined with a critical application. The virtue for which these Bereans are here extolled, St. PAUL recommends to the whole church, and in a more enlarged way. *Prove all things*, says he, [δοκιμάζετε, sift well and examine] *hold fast that which is good* †. And the arms, with which (by St. Paul's direction) the believer had provided himself, St. Peter advises him always to have in readiness—*Be ready always to give an answer* [—ἀπολογία, i. e. a full and formal answer—] *to every man that asketh you a* REASON *of the hope that is in you* ‡. So consistently, with each other, did these holy men act, in their general direction to the churches. *We have no* DOMINION *over your faith*,—[Κυριεύομεν, we do not lord it over] says the former of them, *but are* HELPERS *of your joy* §—[συνεργοὶ, fellow-labourers.] Hence it appears,

* Acts xvii. 11. † 1 Thess. v. 21.
‡ 1 Pet. iii. 15. § 2 Cor. i. 24.

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the church is no despotic government, but a free republic. So scandalously (by the way) did the late author of, *Christianity not founded on Argument*, misrepresent the religion of his country!

2. As to the CIVIL PART—A mistake (occasioned by those apostolic triumphs, *where the spirit of the Lord is, there is liberty)* had crept in amongst the early Christians, that the Gospel dissolved the bonds of civil slavery, and manumised the convert, *foro civili.* To combat an error, which was likely to give much scandal to the state, and to prejudice its citizens against the new religion, St. Paul delivers these directions to the church of Corinth—*Let every man abide in the calling wherein he was called. Art thou called being a servant* [δοῦλος, a slave], *care not for it; but if thou mayest be made free, use it rather. Ye are bought with a price, be ye not the servants* [the slaves] *of men. Brethren, let every man wherein he is called, therein abide with God**.

As *the kingdom of Christ is not of this world*, the coming under its dominion makes no change in the civil condition of men. The apostle therefore, to obviate any imputation that *Christianity* disturbed or was unfavourable to civil government, directs those converts who were in a state of civil slavery, to acquiesce, and remain contented under it. But lest this direction should be mistaken to imply, what our Citizen of Geneva has dared to assert, "That *true Christians are made to be slaves*; civil matters being below the notice of saints;" he, at the same time, advises them to change their condition of slavery, to that of free citizens, whenever a fair occasion offers. And to shew them that this was no indifferent matter,

* 1 Cor. vii. 20, & seq.

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he sets before their eyes the height and nobility of the Christian character.—*Ye are bought*, says he, *with a* PRICE; *be ye not the servants* [or slaves] *of men.* As much as to say, "The dignity of human nature is so highly advanced, by the immense price paid for it, the death and passion of the Son of God, that it would be base and incongruous for any of the REDEEMED, to rest satisfied with a state of slavery; when, without violating the established rights of society, it is in their power to become free." And this reasoning in favour of CIVIL FREEDOM appeared *so powerful* to St. Paul himself, while he was urging it, that, timely alarmed for the *abuse* it might occasion, he returns to where he set out, and repeats the admonition he began with—*Brethren, let every man wherein he is called, therein abide with God*; i. e. "let him not be ashamed to abide, and appear before God, in that station in which God's providence hath placed him." We see then, that according to St. Paul's idea of Christianity, the *spirit of liberty*, which it inspires, is not confined to the pale of the CHURCH, but extends its vigour to the STATE; since, as he hath observed, the dignity of man's nature, acquired by the price paid for his *redemption*, obliges him to assert the freedom of the WHOLE MAN, as well *civil* as *religious*. But had St. Paul been less anxious for the plenitude of these rights, and contended only in general terms for *Christian* freedom, the consequence, in favour of *civil liberty*, wherever true Christianity prevailed, would have been still the same; as we shall now shew.

1. It is agreed, that if, *Where the spirit of the Lord is, there is liberty*, this *spirit* must recommend

and encourage a FREEDOM OF ENQUIRY, like that exerted by the *noble Bereans*; and must support and indulge the FREE EXERCISE OF CONSCIENCE. But men, practised in the exertion, and habituated to the enjoyment, of *religious rights*, can never long continue ignorant of, or bear with patience, the invasion of their *civil*. The human faculties can never long remain in so violent and unnatural a state as to have their operations perpetually checking and defeating one another, by the contrary actions of two such opposite principles, as *love of freedom* and *acquiescence in slavery*. The one or the other must, in a little time, prevail. Either the foul *spirit of tyranny* will defile the purity of religion, and introduce that blind submission of the understanding, and slavish compliance of the will, into the *church*: Or else the *spirit of the Lord* will overturn the usurpation of an unjust despotic power, and bring into the STATE, as well as CHURCH, *a free and reasonable service*. The same spirit, be it which it will, must prevail in both. This, our author himself, in his own example, has shewn us will be the case, whether our passions carry us to love or hate. His paradoxical aversion to SOCIETY, we see, continues just the same, whether the object be the *civil* or the *religious*.

2. Secondly, *True* religion teaches, that its end is HUMAN HAPPINESS, in opposition to all the superstitious fancies of the *false*; which place it in the arbitrary, the selfish, or the capricious manifestations of God's power, or interest, or glory: and this naturally leading us to the end of civil government, will direct us how to form a RIGHT constitution, where the *prince is made for the sake of the people*; when we have, by the

the foregoing principle of free inquiry, already detected the absurdity of a WRONG; which professes to make *the people for the sake of the prince.*

3. Thirdly, That equitable policy by which *true religion* governs in the church (and true religion as well as false must, as we have shewn, always have a church to govern), will further aid us, when we have now found the *end* of civil society, to attain the *means* likewise, by copying in the state, from that ecclesiastical subordination of power, and limitation of authority, where the SOVEREIGNTY resides in the whole body of the faithful; not, as in the administration of *corrupt religion*, where a servile clergy and a despotic prelate constitute the CHURCH.

4. But, above all, That grandeur and elevation of mind, that sublimity of sentiment, that conscious dignity of our nature, redeemed at so high a price, which *true religion* keeps alive; which holy scripture dictates; and which the Spirit of the Lord inspires, will be ever pushing us on to the attainment and preservation of those CIVIL RIGHTS, which we have been taught by reason to know are ours; and which we have been made to feel by experience, are, of all Ours, the most indispensable to human happiness.

By all these several ways is the SPIRIT OF THE LORD, or *true Religion*, naturally productive of the great blessing, *civil liberty*.

But the most generous and noble constitutions being most liable to abuse, as fruits exalted to their highest degree of perfection are nearest to their state of decay, LIBERTY, the greatest blessing here below, is principally subject to this common infirmity of our nature: On this account, St. Peter, while he recommends, and glories in, Christian *liberty*, yet adds this

this neces ary caution—*As free, and not using your liberty for a cloke of maliciousness, but as the servants of God**; i. e. *Free as the servants of God,* alluding to what St. Paul had said, *ye are bought with a price* [and therefore being the servants of God] *be ye not the servants of men.* But lest this indulgence of the spirit of *civil freedom* should be abused, Peter reminds them on what principle it was indulged, namely, by their becoming (on the price paid) *the servants of God*; a principle equally operative to inspire this spirit, and to keep it within just and proper bounds: for he makes their service to their heavenly master the motive of obedience to their earthly—*Fear God, Honour the King* †.

What follows, in our Author's SOCIAL CONTRACT, *concerning the natural spirit of a Christian Militia,* is such a mixture of sophistry and blunder, and in such equal proportions, that I should be ashamed to give it a formal confutation. However, the last paragraph is too curious to be passed over in silence. "Under the Pagan emperors, the Christian soldiery "were brave. All the Christian writers assure us "they were so. And I believe it. It was plainly "owing to an emulation of honour against the Pagan "troops. When the emperors became Christian, "this emulation ceased; and when the *cross* had "driven away the *eagle,* all the Roman valour disap-"peared ‡." The *Roman valour* did indeed from

* 1 Pet. ii. 16. † Ibid. ii. 17.

‡ Sous les empereurs payens les soldats Chrétiens étoient braves; tous les auteurs Chrétiens l'assurent, et je le crois: c'etoit une émulation d'honneur contre les troupes payennes. Dès que les empereurs furent Chrétiens cette emulation ne subsista plus; et quand le croix eut chassé l'aigle, toute la valeur Romaine disparut. P. 199.

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henceforward, though not *disappear*, yet, certainly, begin to decay. This all the historians of those times, both Christian and Pagan, unanimously confess. We have reason to believe them, for they assign a cause fully adequate to the effect; which was, the hiring of mercenary troops from amongst the barbarous nations, to fight their battles. But EMULATION, the only thing they had occasion for, to preserve and keep alive their martial spirit, while the Romans and their mercenaries charged together under the same ensign, whether of the *cross* or the *eagle*, they had still, in all its vigour.

It may be here just worth while to observe, that our citizen is very apt to forget his own principles. His charge against the unsocial spirit of *Christianity* is founded in *this*, "that its professors are actuated only by *heavenly*, not *earthly* affections." Yet here, to take off all he can from the merit of their acknowledged BRAVERY, he says, it arose from a spirit of military *emulation*.

In conclusion, let me here repeat my complaint, that Rousseau, in this accusation of the *slavish spirit of Christianity*, has once more slurred his usual sophism upon us; and, instead of the *spirit of Christianity*, has given us the *spirit of Popery*; which does, indeed, by stifling all freedom of enquiry in religious matters, prepare us for a slavish submission to civil tyrants. An exploit, in which the church of Rome so much triumphs, that all the advocates of Popery, and all the enemies of the Reformed, from BELLARMINE down to VOLTAIRE, have made the FACTIOUS SPIRIT OF PROTESTANTISM the constant topic of their calumny and abuse.

After all the instances of ILL FAITH here given, with what astonishment must the public hear the Citizen

tizen of Geneva boast to the Archbishop of Paris, that he is A MAN MADE UP SOLELY OF TRUTH; THE ONLY AUTHOR OF THIS AGE, AND OF MANY OF THE FOREGOING, WHO HATH WRITTEN WITH GOOD FAITH *.

## CHAP. V.

### IN WHICH AN OBJECTION TO THE FUNDAMENTAL PRINCIPLES OF THIS ALLIANCE IS REMOVED.

HERE I should have concluded this Second Book, but that it appeared reasonable to obviate an objection, which may seem to affect our fundamental principle, the REALITY of this *free convention*. The objection is this, "That as the two Societies are supposed to be formed out of one and the same number of individuals, those very men who compose the state composing the church also, it is a convention of the same individuals with themselves, under different capacities. Which convention is as trifling and ineffectual as that which one individual would make with himself." The objection, we see, goes upon this

* Mes ennemis auront beau faire avec leurs injures; ils ne m'ôteront point l'honneur d'être UN HOMME VERIDIQUE EN TOUTE CHOSE, D'ETRE LE SEUL AUTEUR DE MON SIECLE, & DE BEAUCOUP D'AUTRES QUI AIT ECRIT DE BONNE FOI. Lettre à M. de Beaumont, p. 65.—Now, with all his *good faith*, he has surely a very unsound mind or memory. In writing against me, he says, as we have seen above, QUE LA LOI CHRETIENNE EST, AU FOND, PLUS NUISIBLE QU'UTILE A LA FORTE CONSTITUTION DE L'ETAT. But when he writes against the *French philosophers*, he says just otherwise: NOS GOUVERNEMENS MODERNES DOIVENT INCONTESTABLEMENT AU CHRISTIANISME LEUR PLUS SOLIDE AUTORITE. Emile, v. iii. p. 200.

suppo-

supposition, that the circumstances which prevent one individual's compacting with himself do unavoidably attend a compact attempted to be made by many individuals with themselves, under the distinction of two Societies.

Now, to shew the supposition groundless, is to overthrow the objection. But we shall do more; we shall not only shew our *free convention* to have none of the circumstances attending it, which prevent *one* individual's compacting with himself; but, that it hath all the circumstances that make a compact binding between *two*.

Let us see what it is which prevents a man's contracting with himself. It is of the essence of all contracts that there be, 1. The concurrence of two wills; and, 2. A mutual obligation on two persons for the performance of their mutual promises. But one man having but one *will*, there is no *foundation* for a compact, which requires the concurrence of two wills: and having but one *person*, there is no *efficacy* in the compact; because no obligation: for what a man promises to himself, himself can acquit. Therefore an obligation, which the obliged can destroy by the sole act of his *will*, is not *real* but *fanciful*. Hence it appears, that a man's contracting with himself is, of all fancies, the most impertinent.

Thus, we see, the defect of that *compact of one individual with himself*, proceeds from the want of two *wills* and two *persons*. If then, two Societies have really two distinct *wills*, and two distinct *personalities*; the subject matter's being one and the same (of which these two artificial bodies are composed) cannot possibly hinder those two societies from entering into compact; nor that compact from having all the effects of such as are adjudged most real.

That two such societies have two distinct *wills* and *personalities* I shall shew. When any number of men form themselves into a society, whether civil or religious, this society becomes a *body*, different from that aggregate which the number of individuals composed before the society was formed. Else the society would be nothing; or, in other words, no society would be formed. Here then is a *body*, distinct from the aggregate composed by the number of individuals: and is called *factitious*, to distinguish it from the *natural body*; being, indeed, the *creature of human will.* But a *body* must have its *proper personality and will*, which, without *these*, is no more than a shadow or a name. This personality and will are neither the personality and will of one individual, nor of all together. Not of one, is self-evident. Not of *all*, because the MAJORITY, in this *factitious body*, hath the denomination of the *person* and of the *will* of the society. We conclude then, that the *will* and *personality* of a community are as different and distinct from the will and personality of the numbers of which it is composed, as the body itself is. And, that as in the erection of a community, a *factitious body* was created, so were a *factitious personality and will.* The reality of this *personality* is clearly seen in the administration of the *law of nations*, where two states are considered as two men living in the state of nature.

But the force of this reasoning will be better seen and supported by an example. The writers of the law of nature and nations allow that the *second convention*, as it is called, in a pure *democratic* state, is as real and binding as the same convention in a state of any other form. The *second convention* is that whereby protection and allegiance are mutually promised by sovereign

sovereign and people: "For in the collective body "(says Hooker) that have not derived the princi- "pality of power into some one, or few, the whole "of necessity must be head over each part*:" So that here the people contract with themselves. And yet is the contract adjudged most real. This conclusion is founded on the very principle I lay down to prove the reality of the convention between church and state; namely that, in entering into society, a *factitious person* is created. In a democracy, this person, the sovereign, is the WHOLE: and, with this person, the *natural persons* of all the individuals convene.

If this be the case, then it follows that the self-same number of individuals, which have formed and erected, of themselves, one society or *factitious body*, endowed with a distinct *personality and will*, may erect, of themselves, as *many such* societies as they please. Because the body, personality, and will, of such societies being all factitious, the storehouse, from whence they come, is as inexhaustible as the wants of mankind. Whereas, were the will and personality of the individuals, the will and personality of the society composed by them, then, on the contrary, the self-same number of individuals could not erect above *one* society: Because their personality and will being already bestowed upon one society, they had them not to give again, in order to animate any other.

Here then we have two societies, made up of one and the same number of individuals, with each its distinct personality and will; each different from the personality and will of the other, and from the personality and will of the individuals. But the different *natures* of the societies not only make their wills and

* Eccl. Pol. b. viii,

personalities distinct, but their different *ends* will keep them so. For each society being created for one certain end, it hath its own proper views and interests: and though each be so closely related to the other as to have one common *suppositum*, yet it pursues its proper interests only; without further regard to the interests of the other, than as *these* interests support its own. In this, the *artificial* man, society, is much unlike the *natural*; who being created for *several ends*, hath several interests to pursue, and several relations to consult; and may therefore be considered *under several capacities*, as a *religious*, a *civil*, a *rational* animal, *&c.* and yet they all make but one and the same man. But one and the same political society cannot be considered, in one view, as a religious—in another, as a civil—and, in another, as a literary community. *One* society can be precisely *but one* of these communities *.

But, now it is to be observed, that, let this objection to a real convention, from the want of distinct personalities and wills in the two societies, be as strong as we have shewn it to be weak, yet it reaches only to those two societies under a pure unmixed *democratic* form; in which the sovereignty of the society resides in the whole number of individuals. When both, or either, is under any other form, the objection is more clearly seen to have no weight. Because then the

* Ecclesiastica potestas seu respublica Christiana, quæ sub nomine ecclesiæ sæpe explicatur, eam significat clericorum et laïcorum collectionem, qui in unum corpus adunati, ecclesiasticis legibus se subjiciunt: non quidem quatenus homines civilem rempublicam componentes, sed quatenus in spiritualem cœtum admissi. Eadem ratione civilis respublica dici potest, quæ vel ex infidelibus principibus & rebuspublicis constet, vel quæ ex Christianis hominibus quidem, sed nullo ad religionem respectu habito, componitur. Marca, l. i. c. 1, F. T.

sovereignty

sovereignty of, at least, one of the societies resides not in the whole, but in part only of the body politic. And all conventions between societies being made between the sovereignties thereof, these sovereignties must needs have two personalities and wills, as being composed, not of the same, but of different individuals. But few or no religious or civil societies being under this pure unmixed democratic form, the objection is not directed against any *actual* union between the two societies. However having all along, for the sake of clearness and brevity, considered the two societies under this simple and primitive *democratic* form, I thought it proper to remove an objection which lay against that form, though it lay against that only.

The conclusion from the whole is, that two societies, composed of one and the same number of individuals, in which the personalities and wills not only *are*, but *must* necessarily continue to be and to be kept, distinct, are proper subjects for compact and convention with one another; there being no circumstance, either necessary or commodious, for the making any kind of civil compacts binding, which is not to be found in these. I will only add, that as the administration of both societies can never be in the same hands at once, those *personalities and wills*, which *are*, and are *kept up*, distinct, will be easily understood to be so.

But, to crown the whole, let me observe, that nothing so clearly evinces the importance and necessity of this THEORY for justifying the right which the state hath to interfere in church matters, as the mistakes into which the excellent HOOKER was betrayed, on his missing of that capital idea of an ALLIANCE, when he came to defend *the right of civil princes to ecclesiastical dominion*, in the eighth book of his immortal work, intitled, OF THE LAWS OF ECCLESIASTICAL POLITY.

Now, although it hath been long doubted, Whether we have received the *three* last books of this work from the Author's most perfect copy, seeing they came not to the press till after his decease; yet that they are indeed of the same hand with the other *five*, cannot I think be doubted by any who have studied the unquestioned books with a due degree of attention.

The subject of this eighth book is, as we have said, a defence of the civil magistrate, in the administration of ecclesiastical supremacy, against the PURITANS of that time, who denied the spiritual legality of such a supremacy, and supported their opposition on this capital argument—*The church and commonwealth being societies or corporations totally distinct and independent on one another by nature, there is a separation perpetual and personal between the church and commonwealth**. This argument HOOKER attempts to overthrow. The position of his adversary is loosely worded. But the contest, at that time, subsisting between the *Puritans* and the *Church of England*, shews the meaning to be this, That "that INDEPENDENCY which a *religious* society had by nature, it could never give up to the *civil*."

The argument itself might have been easily answered, as the Reader sees it hath been in this discourse of the *Alliance*, where the PREMISSES are not only granted, but by various reasonings established; and the INFERENCE not only denied, but by the same reasonings refuted: It being shewn, that nothing can hinder two distinct and independent societies from entering into compact: and that *only such* societies can contract a free *alliance*. This, which *may* be done lawfully, I have shewn *must* be done necessarily, before the church can claim the protection of the

* Eccl. Pol. book viii. p. 407.

state;

state; or before the state can engage the service of the church; and both act in the manner in which these reciprocal benefits are given and returned, in the happy establishment under which we live. In other words, I have shewn, how the church became enabled to exercise civil power without *tyranny*; and the state, to exercise ecclesiastical power without *usurpation.*

But, by ill hap, the excellent HOOKER took the contrary method: He denied the PREMISSES, instead of questioning the CONCLUSION; and so entangled himself and his cause in inextricable difficulties. He too hastily conceded to his adversaries, that those things which were separated by *nature*, and more especially by divine *institution*, and so, INDEPENDENT of one another, must always continue independent. An absurd assertion! which the Reader will see confuted at large in the *Postscript*, against the reasoning of Lord Bolingbroke, who lately revived this Puritan principle. Instead therefore of exposing the error of the *conclusion*, HOOKER addresses himself (as we said) to confute the PREMISSES; and to shew, that *church and state were not two societies totally distinct and independent by nature*, but rather *one and the same society; which, regarded in different views, had different names**. *For*, (saith he) *the truth is that the Church and Commonwealth are names which import things really different.* But THESE THINGS ARE ACCIDENTS; *and such accidents, as may, and always should, dwell lovingly together in one* SUBJECT†. Which subject, he tells us, is the aggregate body of a people. Or, in other words, church and state are one *society under different names.* He attempts to support this idea from *reason* and *fact.*

* Page 407. Edit. 1723. † Page 409.

1. "We hold, (says he) that seeing there is not "any man of the Church of England but the same "man is also a member of the Commonwealth, nor "any member of the Commonwealth which is not "also of the Church of England, therefore, as in a "figure triangle, the base doth differ from the sides "thereof, and yet one and the self-same line is both "a base and also a side; a side simply, a base if it "chance to be the bottom, and underlye the rest: so "albeit properties and actions of one, do cause the "*name of a Commonwealth*; qualities and functions "of another sort, the *name of the church* to be given "to a multitude; yet one and the self-same multitude "may, in such sort, be both*." To this ingenious illustration, it is sufficient to reply, in the great man's own words, in this very book:—*There is nothing for which some* COMPARABLE *reason or other may not be given*;—i. e. *by some simile or other, supported.*

But let us consider the *argument*, on which he founds his illustration, "that the same individuals being members both of church and state must make them but one community, under different names." An argument which he repeats in the next page.—"When all in the Commonwealth do believe the gos-"pel, and are contained in the name of the church, "how should the church remain BY PERSONAL SUB-"SISTENCE divided from the Commonwealth? The "church and the Commonwealth are in this case, "therefore, PERSONALLY, one society: which society "being termed *Commonwealth*, as it liveth under what-"soever form of secular law and regiment; a *church*, "as it liveth under the spiritual law of Christ†." —Now all this strange reasoning ariseth, as the

* Eccl. Pol. book viii. p. 407. † Page 409.

reader

reader sees, from not distinguishing between a *natural* and an *artificial* PERSONAGE; which latter every society, community, or corporation, necessarily creates; as hath been just now shewn at large in this very chapter; so that when this distinction is applied, the absurdity becomes apparent.

2. The great writer's argument from *fact* is taken from the *Jewish Commonwealth*, where *church and state* made but one society.—"Unto the Jews (says "he) God so revealed the truth of religion, that he "gave them, in special considerations, laws not only "for the administration of things spiritual, but also "temporal. The Lord himself appointing both the "one and the other in that Commonwealth, did not "thereby distract it into several independent commu-"nities, but institute several functions of one and the "self-same community. Some *reasons* therefore must "there be alledged why it should be otherwise in the "church of Christ*." These *reasons*, the reader hath seen alledged just above. But with regard to his own reason, shewing whereby the Jewish church and state became *one and the self-same community*, nothing can be more defective; the true cause of *this incorporation* was peculiar and singular; it was the natural and necessary consequence of a THEOCRACY; as hath been shewn at large elsewhere†; and therefore cannot be possibly urged in proof or support of HOOKER's general principle, "that church and state make but one society or community." However, this was an argument *ad homines*. The puritans of that time were accustomed to support their dissent from the established discipline of the church, on peculiarities in the Mosaic economy, ill

* Page 408. † Divine Legation, Part II.

understood,

understood, and worse applied. Yet had our great author, instead of opposing their premisses, bethought himself to oppose their conclusion, *that the church and state could never allie*, he had had a very easy victory; for all that the Puritans could find to support this proposition, was the principle, which in those days they generally went upon, that *every thing was evil for which men had not the command or the permission of scripture.* Now HOOKER might easily have overthrown this principle, by only observing that there was such *permission given by scripture* to unite the two societies, in the example of the Jewish republic.

But the abhorrence of one extreme, always runs indiscreet disputants into another. Sometimes the most discreet are liable to this abusive conduct, when they have missed of the true medium. This was unhappily the case here. Hooker saw plainly, that the Puritan principle (which held, not only that *the church and Commonwealth were societies totally distinct and independent on one another by nature, but that this separation was to remain perpetual)* necessarily brought in that absurd and fatal evil in politics, an *imperium in imperio:* for they held that the magistrate was notwithstanding *ordained*, and therefore *obliged*, to support the church, and to impart to it of his civil coercive power even while she retained her independency and sovereignty. To combat this principle, which makes the *state a slave to the church*, HOOKER ran into the opposite extreme, which makes the *church a slave to the state.* His words are these: "Another occasion of which *misconceit*," *(viz.* that the church and state are two distinct independent societies) "is, that things appertaining to religion are "both distinguished from other affairs, and have al-

"ways

" ways had, in the church spiritual, persons chosen " to be exercised about them. By which distinction " of spiritual affairs, and persons thereon employed, " from temporal, the error of PERSONAL SEPARA- " TION always necessary between the church and " Commonwealth hath strengthened itself. For of " every politic society, that being true which *Aristotle* " saith, namely, *that the scope thereof is not simply* " *to live*, NOR THE DUTY SO MUCH TO PROVIDE " FOR THE LIFE, as for the means of living well: and " that even as the soul is the worthier part of man, so " human societies are much more to care for that " which tendeth properly to the soul's estate, than for " such temporal things which the life hath need of. " Other proof there needeth none, to shew that as by " all men the kingdom of God is to be sought first, so " in all Commonwealths, things spiritual ought, above " temporal, to be sought for; and of things spiritual " the chiefest is religion *." This reasoning is founded on the *misconceit*, so thoroughly exploded above, " That civil society was instituted for the attainment of every kind of good it is even accidentally capable of producing:" this he supports by the words of Aristotle ill interpreted; who by the *means of living well* meant no more, than that *society* procured those commodities of civil life, which in a *state of nature* men must be content to live without. Aristotle's words are literally these, that society was instituted first *for the sake of living, simply*; *and then for the sake of living happily*—γινομένη μὲν ἕν τῦ ζῆν ἕνεκεν, ἔσα δὲ τῦ εὖ ζῆν. He is extremely concise. But his meaning seems to be this, (as hath been observed above) that the *primary* end of civil society, was to secure men from that mutual violence to which they were exposed in

* Eccl. Pol. book viii. p. 408.

a state

a state of nature: the *secondary*, to promote those *accommodations* of life which civil society only can bestow. And here, I am sorry to observe, that this excellent man, in paraphrasing the words of Aristotle, so as to give a sense to his purpose, (a purpose, the Greek philosopher never thought of) has added,—*nor the duty so much to provide for the life*—meaning THIS life.

But to proceed,—Again,—"Christian Kings, with-"in their own precincts and territories, (says he) "have an authority and power, *even in matters of* "*Christian religion:* and there is no higher, nor "greater that can in those cases ever command them, "where they are placed to reign as Kings *." The unavoidable consequence of this doctrine is,

1. THAT *the church becomes a slave to the state:* for if it be the first duty of the civil magistrate to see to the good condition of *things spiritual, the chiefest of which is religion,* he must, on being invested with his office, (which HOOKER very rightly derives from the people) be endowed with power to put and to keep *spiritual things in this condition*; which power can be no other than absolute authority in church-matters, or, as HOOKER himself more strongly expresses it, *authority and power in* MATTERS OF CHRISTIAN RELIGION. So that the church as a religious society hath nothing left to be performed, on their part, but a ready obedience to all the commands of the state. And that this is no forced inference drawn from HOOKER's principle will appear evident from hence,—One of the great purposes of Hobbes's LEVIATHAN is to prove, that the church is a creature of the state: and he proceeds to induce his proof,

* Eccl. Pol. book viii. p. 411.

on

on this very principle of HOOKER, *that a* COMMONWEALTH *of Christian men and a* CHURCH *are the same thing called by two names* *. But this is not the worst; for,

2. Secondly, these principles support and authorize *persecution for opinions:* for if, when the magistrate decrees in religious matters, whether of doctrine or discipline, men will not submit, the absolute power here given him justifies him in using force, for *he beareth not the sword in vain.* And to confess the truth, these principles, recommended by so great an authority, soon becoming the principles in fashion; the practice soon followed: the magistrate became a *persecutor*; and so continued; till *civil necessity*, arising from a state revolution, not the *religious choice* of a better theory, put a final stop to this opprobrium of humanity.

To conclude, the PURITANS and their incomparable adversary had, in this famous quarrel (as is the wont) divided truth and falsehood pretty equally between them. The Puritans were right in supposing church and state to be two distinct independent societies: they were wrong in supposing the two societies must always continue so: but right again in holding, that while they did so continue, the civil magistrate had nothing to do with religion. On the other hand, HOOKER was wrong in thinking, *church and state* was only one society under different names. He was right in asserting the civil magistrate's supremacy in religion; but wrong again in supposing that this supremacy was by *nature*, and not by *compact*. Thus, from right premisses, the PURITANS drew a wrong conclusion; and from wrong premisses, HOOKER

* Leviathan.

drew

drew a right one. But if, from the wrong conclusion of the *former*, the supremacy of the magistrate was for ever excluded; yet from the right conclusion of the *latter*, he was admitted before his time. And all this confusion arose from a common error, admitted on both sides, that if church and state be distinct and independent societies, they must EVER remain distinct and independent.

The result from all we have seen was this, that the PURITAN principle established an IMPERIUM IN IMPERIO: and that HOOKER's introduced PERSECUTION FOR OPINIONS.

## NOTES TO BOOK II.

### P. 93. [A]

WE have a remarkable instance of this in the state of Venice, which is a thorough tyranny, if ever there was any. Mr. Bayle tells us [Crit. Dict. Art. *Abelard*, Rem. (P)], that one day asking a friend, who had told him a thousand stories of the disorders of the Venetian ecclesiastics, how it happened that the state would suffer things so dishonourable to religion and society? his informer replied, that the good of the public obliged the sovereign to this indulgence; that the senate was not displeased to find the priests and monks fall under the public contempt for their debaucheries, for that in this condition they would have no credit to raise or foment sedition amongst the people; and that one of the reasons why the Jesuits were not acceptable to the sovereign was, because they knew how to preserve the decorum of their character; and so, gaining respect and reverence by a more decent exteriour, had it in their power to excite the populace to sedition.

P. 95. [B]. A jurisdiction somewhat resembling this we find in the famous court of Areopagus at Athens: which city was once the model of *civil prudence* as well as of *religion*, to the improved part of mankind. Isocrates, speaking of this branch of jurisdiction in the Areopagus, says, *It was not occupied to punish crimes, but to prevent them*—ἐ τῦτο πρῶτον ἐσκόπει, δι' ὧν κολάσεσι τὺς ἀκοσμῦντας, ἀλλ' ἐξ ὧν ἂν κατασκευάσει

*Ἰασχυνάσθω μηδὲν αὐτὸς ἄξιον ζημίας βουλήσεσθαι ἁμαρτάνειν· ἡγοῦμαι γὰρ τοῦτο μὲν αὐτῶν ἔργον εἶναι.* ARRIAN. LOG.

P. 98. [C]. In this consists the MASTER-SOPHISM which runs through Tindal's whole book of the *Rights of the Christian Church.* He brings all along the *confessed abuse* of ecclesiastical government as an argument that the church is an *imperium in imperio*; whereas that evil consists in the *legitimate* exercise of two contradictory sovereign powers in one and the same republic; nothing of which there is, as we have shewn, in a church and state; though both sovereign and independent before *alliance.*

P. 100. [D]. The reason why, throughout this Discourse, I have taken it for granted, "That a full and free toleration, or liberty of worshipping God in the way every one shall chuse, is of natural equity, and consonant to the genius of our holy religion," is because Mr. BAYLE in his *Philosophic Commentary*, and Mr. LOCKE in his *Letters on Toleration*, have exhausted the subject, and vindicated this liberty with the fullest and clearest evidence. And I am not of an humour *actum agere.* M. Voltaire indeed has lately undertaken to write in favour of it. How he has acquitted himself is now (since those admirable discourses have been in the hands of all mankind) of little consequence to any but himself. Yet it must needs divert the Reader to observe the air with which he concludes—"Cet ecrit sur la tolerance est une "requête que l'humanité presente *tres humblement* "au pouvoir et à la prudence. JE SEME UN GRAIN "QUI POURRA UN JOUR PRODUIRE UN MOISSON." —*I sow a grain of seed* (says he) *which may, one day, produce a harvest.* He had been much nearer the truth,

truth, and that *humility*, which he here pretends to, if, with the man in the parable, he had confessed, that he *had reaped where another had sown*. Or if in courtesy, we will allow him his pretensions, of being a labourer in the Lord's heritage, he will have the grace to confess, that he has ill observed the precept of the Law, *not to sow his field with* MINGLED SEED: for his way throughout this discourse is to recommend *toleration* by abusing *religion*.

P. 110. [E]. When the QUAKERS first arose, the clergy generally claimed their tithes by DIVINE RIGHT; and there being nothing in the *light within* to direct those people up to that original, they regarded the exaction of tithes as an *antichristian robbery*; and rather chose to suffer, what they called, *persecution*, than comply with the demand.

In no long time after, the clergy in general gave up this claim. I think the priest's *divine right* to a tenth part, and the king's *divine right* to the other nine, went out of fashion together. And thenceforward the church and the crown agreed to claim their temporal rights from the laws of the land only.

One would think therefore, that when churchmen had changed their bad principles for better, the quakers might have done so too. To be candid, I will not suppose, they wanted this good disposition. But the smallest change in their religious system would have brought the whole into hazard. For here lay the difference between the *church* and the *conventicle*. The reform of the national religion from the corruptions of popery, was made on the principles of human reason guided by common sense. In which, whatever mistakes the REFORMERS had committed (errors incident to humanity), their successors might

redress without blushing; and, what is more, without any danger of dishonouring religion. It was not so with the Quakers. For this sect being founded in *modern inspiration* (which is, by interpretation, *fanaticism*) to alter the least article of their creed was giving the lye to the Holy Spirit, as it came from the mouth of their founder, George Fox.

*Payment of tithes*, therefore, was still obstinately to be refused. And, to support their perseverance, they had recourse to another fetch of principle, "That whoever contributes to the support of a thing sinful is partaker of that sin." And tithes being apparently sinful, the desired conclusion was within call. This afforded much consolation to FRIENDS. It is true, the expedient was not without its inconvenience: for in the number of things sinful, they held *war*, especially an offensive war, to be one. And then an act of parliament, granting an aid for the support of such a war, brought on a new distress. What was to be done? The king would be obeyed. This they well knew, and therefore in dutiful silence paid their quota, and left it to their ill-willers to detect the prevarication. Thus stands the case at present with these conscientious people.

But to judge what indulgence is fairly due unto them, we should consider a little the true grounds of that complaisance which free-states are always disposed to shew to tender consciences. Now I apprehend they understand it to extend no further than to opinions which have no evil influence on the true and essential interests of society. For to carry the indulgence further would be a species of fanaticism, though of a different kind indeed, yet as mad as that which produces the tender consciences in question.

Of opinions thus injurious, there are various kinds; from

from that which is least so, the *unlawfulness of tithes*, up through the rising degrees of—the UNLAWFULNESS *of oaths*—of *self-defence*—of *capital punishments*; till we come to a reprobation of *civil magistracy* itself, and the renouncing of all kings *but king Jesus*. It will be allowed, that most of them require suppression, rather than indulgence: and I believe all will own that the last was not unjustly treated, when, in the memory of our fathers, it was exterminated between the king's guards and the gallows. To the first, the obstinate refusal to pay tithes, in defiance of the public laws, some indulgence has been reasonably shewn: and that a wayward conscience might lie as light as possible on their temporal interests, a *justice of peace* was authorized to wrest from them, in an easy and expeditious way, what they could not keep, and were scrupulous to restore.

But now what return did they make for so much favour? Why, from thenceforward they never lost an opportunity of teasing the legislature (of which they have given a recent instance) to exclude the clergy from every other entrance to justice. Their endeavours have been hitherto fruitless; and fruitless, I suppose, they are like to remain: for a more insolent or iniquitous demand was never made on an equal legislature.

These clergy-rights rise upon the same footing with all the lay-rights in the kingdom; to whom every court of law and equity, as is fit, stands open. Yet these, as a sealed fountain, are to be kept shut up for the solace of the saints; and the clergy to be admitted no higher than to the muddy stream of a country justice.

Had the Quakers confined their demand to an exemption from an *ecclesiastical jurisdiction*, some

decency of appearances had been kept, for the spiritual courts might have been thought too much a party: not to say that the proper object of their power extends no further than *reformation of manners*. But to attempt a violation, not of this only, but of all civil communities, in which it is the essential right of citizens to have all the courts of justice thrown open to them, is a strain of modesty peculiar to this illustrious sect.

P. 121. [F]. When a modern archbishop of the same see (and, to judge of him only by what follows, one might, though very erroneously, suspect him of the same principles) had entertained us with this flattering story of the archbishop Courtney, he proceeds thus: "Nor has the statute of the 25th of "Henry VIII. had any other influence on the state "of these assemblies [viz. Convocations] as to this "matter [viz. the right *of* calling themselves] THAN "ONLY THIS, that whereas, before, the archbishop "might, whenever he pleased, without any other direction, by his own proper motion have summoned "his clergy to a synod, now he may not do it, but by "the king's writ to warrant him therein: but as for "the POWER of calling them, that is still left to him "as it was before." *Wake's State of the Church and Clergy of England*, p. 11. I believe, the Reader would suspect me of a design to banter him, if in a similar case I should argue in a similar manner, and say, "The FREE election of a bishop by his chapter, "has received *no change* from what it was in ancient "times *but only this*; that whereas, anciently, the "chapter, without any other direction, might, on a "vacancy, by their own proper motion, chuse a new "bishop; now they may not do it, but by the king's "writ

"writ of *congé d'eslire*; which they must wait for, "before they proceed to election. But as for the "RIGHT of chusing their bishop, that is still left them "as it was before." For without doubt the incurring a præmunire for summoning a synod, and chusing a bishop before the king's writ comes, or refusing to summon or to chuse after it is come, can never affect the *power* of the one or the *free choice* of the other.—But this will ever be the case even amongst men of the most reasonable principles, when they write, as party, and not as truth, directs their pen.

P. 139. [G]. CARTE the Nonjuror, AN ENGLISHMAN, as he calls himself, was (with a good deal of knowledge in old records, but without judgment) set on work and publicly paid to write a JACOBITE HISTORY OF *England*. This man, to support his doctrine of *indefeasible right*, observes, when he comes to the reign of Henry IV., *That the clergy of England have never* THRIVEN *under* (what he calls) *an usurpation*. One of their *oppressions* under this reign, being, as he reckons, *to be enrolled in a commission of array to oppose a French invasion*. Now could any thing be more destructive of his avowed purpose than this silly observation, or more recommend an *interrupted* succession to his masters (who I suppose are *Englishmen* too), than that, at such seasons, the encroachments of the clergy on the civil power were wont to receive some check?

P. 150. [H]. But let it be observed, that the CANON LAW rarely cultivated a truth, but in order to graft a lye upon it: as here, under pretence of teaching humility in church governors, and of encouraging the inferior clergy to vindicate their Christian liberty,

the real purpose of the COURT of ROME was to mortify all Catholic bishops, for insolently pretending to be of the same rank and order with the bishop of Rome; by a fair hint that they were BISHOPS but by courtesy, and that they differed from PRESBYTERS only in *name*, given them on no better authority than old doating *custom*.

P. 153. [I]. How necessary this SUPREMACY is, for the sake of the state, may be seen by the famous contention between the *House of Commons* and the *Convocation* in 1532, before the Act of Submission of the Clergy to *Henry* VIII.

The *Commons* in the year 1532 represent, in a petition to the King, "that the clergy in *Convocation* "have made, and dayly make, divers sanctions or "laws concerning *temporal things*; some of which be "repugnant to the laws and statutes of the realm, not "having ne requiring the royal assent to the same; "nother any assent or knowledge of the lay subject; "nother to them published and known in their mother "tongue; albeit divers of the said laws extend to the "King's person, his liberty, and prerogative royal, "and to the interdiction of his laws and possessions, "and so likewise to the goods and possessions of his "lay subjects, declaring the infringers of the said "laws, so by them made, not only to incur the ter- "rible censure of excommunication, but also the de- "testible crime and sin of heresy; by which, the "humble and obedient lay subjects be brought into "this ambiguity, whether they may execute the King's "laws, according to his jurisdiction royal, for dread "of the same censures and pains comprised in the "same laws, so by them made in their Convocation, "to the great trouble and inquietation of the lay sub-

"ject, &c. and the impeachment of the King's juris-
"diction and prerogative royal."

The answer of the *Convocation* to this representation of the *Commons* was as follows—"We say, that for-
"asmuch as we repute and take our authority of
"making laws to be grounded upon the scripture of
"God, and the determination of HOLY CHURCH,
"which must also be a rule and square to try the
"justice and righteousness of all laws, as well spiri-
"tual as temporal, we verily trust, that, considering
"the laws of this realm be such as have been made
"by most Christian, religious, and devout princes
"and people, how both these laws proceeding from
"one fountain, the same being sincerely interpretated,
"and after the good meaning of the makers, there
"shall be found no repugnancy nor contrariety, but
"that the one shall be found, as aiding, maintaining
"and supporting the other. And if it shall otherwise
"appear, as it is our duty to reform our ordinances
"to God's commission, and to conform our statutes
"and laws and those of our predecessors, to the de-
"termination of scripture and HOLY CHUROH; so we
"hope in God that your highness will, if there appear
"cause why, with the assent of your people, temper
"your grace's laws accordingly. And as concerning
"the *requiring of your highness' royal assent* to the
"authority of such laws as have been by our prede-
"cessors, or shall be made by us in such points and
"articles as we have by God's authority to rule and
"order by such provisions and laws; we knowing
"your highness' wisdom and virtue and learning,
"nothing doubt but the same perceiveth how the
"granting hereunto dependeth not upon our will and
"liberty. AND THAT WE, your most humble sub-
"jects, MAY NOT SUBMIT THE EXECUTION OF OUR

" CHARGE AND DUTY certainly prescribed by God,
" TO YOUR HIGHNESS' ASSENT, although in very deed
" the same is most worthy for your noble, princely, and
" excellent virtues, not only to give *your royal assent*,
" but also to devise and command what we should for
" good order and manners by statutes and laws pro-
" vide in the church; nevertheless considering we
" may not refrain the doing of our office, we most
" humbly desiring your grace, as the same hath here-
" tofore, so from henceforth, to shew your grace's
" mind and opinion to us, which we shall most gladly
" hear and follow, IF IT SHALL PLEASE GOD TO
" INSPIRE US SO TO DO.

" Furthermore, whereas your said lay-subjects say,
" that sundry of the said laws extend to your excellent
" person, your liberty, and prerogative royal, and to
" the interdiction of your lands and possessions: to
" this we say, that having submitted the tryal and ex-
" amining of the laws made in the church, by us and
" our predecessors, to the just and strait rule of God's
" laws, which giveth measure of power, prerogative,
" and authority to all emperors, kings, princes, and
" potentates, and all other; we have conceived such
" opinion of your majesty's goodness and virtue, that
" whatsoever any persons, not so well learned as your
" grace is, would pretend unto the same, whereby
" we may be brought into your grace's displeasure,
" surmising that we should by usurpation and pre-
" sumption extend our laws to your most noble per-
" son, prerogative and realm, yet the same your high-
" ness being so highly learned will facilly discharge and
" deliver us from that envy, when it shall appear that
" the said laws are made by us or our predecessors
" conformable and maintainable by the scripture of
" God and *determination of the church*, AGAINST
" WHICH,

"WHICH, NO LAWS CAN STAND OR TAKE EF-
"FECT."

This was such an apology as convinced HENRY that it was time to provide for their more perfect SUBMISSION; which he did, soon after, by act of parliament. For, how he relished their answer appears from what he said to the *Commons* when he ordered them to come and receive this answer of the *Convocation*. "We think (says he) their answer will smally "please you, for it seemeth to us very SLENDER. "You be a GREAT SORT OF WISE MEN; I doubt not "but you will look CIRCUMSPECTLY in the matter; "and we will be INDIFFERENT between you."— Without doubt, he meant as an *umpire*, not as a simple *spectator*: For he was more concerned in the matter than either of them. The *Convocation* was intrusted with the welfare of the church: the *Commons* with that of the state; but HENRY was intrusted with the welfare of both.

P. 154. [K]. Yet so perverse or ignorant hath the citizen of Geneva shewn himself, that, after reading all this, he hath declared, that "though the King of "England hath established himself *head of the church*, "yet in England as well as in other places there are "two powers, two sovereigns;" and consequently an *imperium in imperio*. His reason is admirable: the *headship consists rather in a power to preserve religion than to change it*; that is, to destroy it. So that to prevent an *imperium in imperio*, nothing will serve him but the right of destroying at pleasure. A right founded on no other principle than this, that religion is a *creature* of the state, viz. a phantom invented by politicians to keep fools in awe. That this is all the notion which our virtuous citizen of Geneva has of the matter,

matter, he declares plainly enough throughout all his writings; and particularly by what immediately follows, " that of all the Christian writers the philoso-" pher, Hobbes, is the only man who has fully seen " the mischief [of this *imperium in imperio*], and " provided the remedy, by daring to propose a re-" union of the two heads of the eagle, and by bringing " back every thing to the political unity." But to manifest his good faith, or, at least, his knowledge of the civil constitutions which he thus dogmatically condemns, he says, that *in all places where the clergy make and constitute a body, there they are masters and legislators in their department.* In England the clergy make a body, and a distinct body; yet they are neither masters nor legislators in their department. Their department is in CONVOCATION: yet there they cannot so much as enter into any business till they have particular and express licence, from the civil magistrate, for so doing. He pretends to have read what is here said of the *Alliance between Church and State*, as it exists at present in England: and there he might see, that the first and most necessary consequence of the King's becoming *head of the church* is, that without the consent and allowance of the state, the church can exert no act of authority or legislation to decree or change any thing either in the discipline or doctrines of religion.

" Parmi nous, les rois d'Angleterre se sont établis chefs de l'Eglise, autant en ont fait les czars; mais par ce titre ils s'en sont moins rendus les maîtres que les ministres; ils ont moins acquis le droit de la changer que le pouvoir de la maintenir; ils n'y sont pas LEGISLATEURS, ils n'y sont que *princes*. Partout où le clergé fait un corps il est maître & legislateur dans sa partie. Il y a donc deux puissances, deux souverains,

rains, en Angleterre et en Russie, comme tout ailleurs. De tous les auteurs Chretiens le philosophe Hobbes est le seul qui ait bien vû le mal et le remede, qui ait osé proposer de réunir les deux têtes de l'Aigle, et de tout ramener à l'unité politique, sans laquelle jamais etat ni gouvernment ne sera bien constitué." *Du Contract Social,* L. iv. c. 8.

P. 156. [L]. The very learned, the president Henault, in his Chronological History of France, speaking in justification of the CONCORDAT, which gives the right of nomination of the greater benefices to the King, and of its just preference to the PRAGMATIC SANCTION, says—"Que le roi *representant la nation,* "c'est a lui d'exercer les droits qu'exercoient les "premiers fideles; et *qu'ils lui ont remis lorque* "*l'Eglise a* ETE REÇUE *dans l'etat,* POUR PRIX DE "LA PROTECTION *que le roi accordoit à la religion;*" p. 603, ed. 8vo; agreeable to the principles, and in the very words, of the ALLIANCE.

P. 160. [M]. As in these *incorporate unions,* it commonly happens that the *fundamental* articles are declared by the contracting parties, to be unalterable; it hath become a question, whether the new sovereignty can alter such articles without dissolving the UNION. The difficulty seems to arise from the very nature of the convention. Two independent states unite in one, on certain conditions, declared, by the contracting parties, to be unalterable. When these two states are *equal,* a new one arises from their incorporation, composed of the other two; when *unequal,* the less is melted down into the more powerful; as in this latter case one only of the contracting parties now subsists; so, in the other, neither of them. But good faith

faith requires, that all contracts shall remain in force, till dissolved by the mutual consent of the contracting parties themselves; but here the contracting parties are no longer in being: So that these articles of *union* would seem to be perpetual, though that condition had not been expressly stipulated. On the other hand, the incessant flux of human things necessitates society, in course of time, to make changes in the most fundamental parts of the constitution. This is the difficulty: which seems not to be well solved in only recurring to the common power of the sovereignty of repealing and changing the laws; whose very *title* indeed shews the absurdity of an irrevocable law; as such law would tend to destroy the very power which puts it in force; for the reason of this act of power is founded on a supposition, that the laws, revoked by the sovereign, were of the sovereign's enacting; which is not the fact, in the case before us. For the articles of *Union*, made before the incorporation, had for their author, powers different from what are now left for their abrogation; one or both the contracting powers being no longer existent.

To justify any alteration, therefore, we must have recourse to a higher principle; which is not the rights of this or that sovereignty, but of society itself, as such. Contracts between independent states are of the same nature as those between individuals. Now a number of individuals, let it be three hundred, or three hundred thousand, agree, in the state of nature, to form themselves into civil society. The *first convention* (as it is called by the writers on the laws of nature and nations) by which the *form* of government is agreed upon, is between individuals; where the consent of every one is necessary to make him subject to it. And this *form* they declare to be unalterable,

as

as the only one they are willing to exchange for their natural liberty. After this follows the *second convention*; in which protection and allegiance are mutually promised by sovereign and people; whereby the contracting parties in the *first convention* become annihilated, and a new factitious person is produced; as appears from hence, that in the *first convention* the consent of every one is necessary to conclude him; in the *second*, the majority is sufficient. Now who ever doubted but that this new created body had a right of altering the form of government? For the necessity, which arises from the nature of things, requiring an alteration, and the contracting parties being no longer existent, their survivor must needs be deemed their substitute, on whom all their power is devolved.

P. 162. [N]. N. Bacon, in his Discourse on the English Government, composed by the assistance of Selden's papers, says, "The common law ever held "the supreme cognizance of excommunication within "its own power, as upon the writ *de quare excom-* "*municato* may appear," p. 182. It was a law from the Conquest, and all along insisted on, that none of the king's barons could be excommunicated without his leave: For in the feudal times there was so close a connexion between the sovereign and his feudatories, that it was a maxim in this law, that the Lord owes no less to his vassal, than the vassal owes to the lord.

P. 173. [O]. The reader cannot but be much edified with the admirable reasoning of Dr. HOADLY, Bishop of Bangor, against Dr. HARE, Dean of Worcester: who had quoted this text, and understood it in the sense here given to it.—"Can such a writer as this "(says his lordship), so warm in a cause touching "the

" the authority of the church, forget that the *church* " *of Christ* is not the CHILD of *Kings and Queens* " becoming christians, but the MOTHER; that the " business of a *mother* is to nurse and feed her chil- " dren, and not to be fed by them: and that the church " is thus represented even by those who are perpetually " quoting this text? Nay the dean ought to be put in " mind, that Christian kings and queens are a part of " this very church to which they are here represented " as *nurses:* and that if this text relates to Christ's " church, then Christian kings and queens are to *nurse* " themselves."—*Dean of Worcester still the same,* &c. p. 71.—To all this, I will only suppose the dean to reply, " Can such a writer as this, so warm " in a cause touching the *supremacy* of the civil " magistrate, forget that a *Christian king,* is not the " HEAD, but a MEMBER of the church: that the " business of every member in a body is to minister to " the wants of every other, *for we are members one* " *of another* [Eph. iv. v. 25.]; not to rule and domi- " neer over all. Nay the bishop ought to be put in " mind, that as kings and queens are parts and *mem-* " *bers* of this very church of which they are repre- " sented as *heads,* their *headship,* instead of being " employed to govern others, must be exercised in " governing themselves."—But, the force of this in- genious reasoning is more fully seen in the next Chapter, where we speak of *natural and fictitious personality.*

P. 175. [P]. Bishop *Burnet,* in his History of *Charles* II. p. 538. tells us, that *Algernon Sidney's* notion of Christianity was, *that it was like a divine philosophy in the mind, without public worship, or any thing that looked like a church.* That an igno- rant

rant Monk who had seen no further than his cell, or a mad fanatic who had looked beside his reason, should talk in this manner, would be nothing strange. But that a man so supremely skilled in the science of human nature and civil policy, and who knew so well what religion was able to do for the state, should fall into this error, is indeed surprising. The view of those monstrous abuses which Christianity had done and suffered, in its application to the state's service, through a long age of ignorance, by a bloody and debauched clergy, and all for want of being guided by the principles here laid down, was, I suppose, the thing which struck him with horror, and inclined him to espouse this strange novelty; instead of recurring to that natural remedy, which another great man, embarked in the same *cause*, points out, where he describes the malady:——Primo homines ut tutò ac liberè sine vi atque injuriis vitam agerent convenere in CIVITATEM; ut sanctè et religiosè, in ECCLESIAM: illa *leges*, hæc *disciplinam* habet suam, planè DIVERSAM. Hinc toto orbe Christiano per tot annos bellum ex bello seritur, quod MAGISTRATUS et ECCLESIA inter se OFFICIA CONFUNDUNT. *Miltoni Defens. Pref.*

End of NOTES to Book II.

THE

# ALLIANCE

BETWEEN

# CHURCH AND STATE.

## BOOK III.

### OF A TEST-LAW.

## CHAP. I.

### OF THE ORIGIN AND USE OF A TEST-LAW.

"O MAGNA VIS VERITATIS, quæ contra hominum ingenia, calliditatem, sollertiam, contraque fictas omnium insidias, facile se, per se, ipsa defendat*!" Thus breaks out the illustrious Roman, transported by a fit of philosophical enthusiasm. This *force of truth* never shone with greater lustre than on the present occasion: where, by the assistance of a few plain and simple principles, taken from the nature of man, and the ends of political society, we have cleared up a chaos of controversy; proved the justice and necessity of an ALLIANCE BETWEEN CHURCH AND STATE; deduced the mutual conditions on which it was formed; and shewn them to have an amazing agreement with our own happy Establishment. What remains is to vindicate the equity of what our constitution calls a

* Cicer. Orat. pro Cœlio.

TEST-

TEST-LAW; which we are now enabled to do *on the very principles of our adversaries themselves.*

The necessity of a NATIONAL RELIGION was, till of late, one of the most uncontested principles in politics. The practice of all nations and the opinion of all sages concurred to give it credit. To collect what the best and wisest authors of antiquity (where the consent was universal) have said in favour of a *national religion*, would be endless. We shall content ourselves with the opinion of two modern writers in its favour: who, being professed advocates for the common rights of mankind, will, we suppose, be favourably heard. "This (says one of them) was an-"cient policy [*viz.* the union of the civil and religious "interests] and hence it is necessary that the people "should have a public leading in religion. For to "deny the magistrate a worship, or take away a "NATIONAL CHURCH, is as mere enthusiasm as the "notion which sets up persecution *." "Toward "keeping mankind in order (says the other) it is ne-"cessary there should be some religion professed and "even ESTABLISHED †." Indeed not many, even now, will directly deny this necessity; though, by employing such arguments against a *Test* as would destroy an *establishment*, they open a way, though a little more obliquely, to this conclusion. But it is that unavoidable consequence springing from an *established church* in every place where there are diversities of religions, a TEST-LAW, which makes the judgment of so many revolt; and chuse rather to give up an *establishment* than receive it with this tyrannical attendant. Although it appears at first view, so evident that, when a church and state are in UNION,

* Shaftesbury's Characteristics, Vol. I. Tr. 1. § 2.

† Wollaston's Religion of Nature Delineated, p. 124.

he who cannot give security for his behaviour to *both*, may with as much reason be deprived of some civil advantages, as he, who, before the UNION, could not give security to the state alone.

The matter, therefore, of greatest concern remains to be enquired into; namely, how *the equity of a test-law* can be deduced from those principles of the law of nature and nations, by which we have so clearly proved *the justice of an Established Religion.* But here, as before, in the case of an *establishment*, it is not to my purpose to defend this or that national form or mode of *test*; for it may so happen (I wish I could say it has not happened) that the very worst may be employed, where the dangers are pressing, or the passions of men inflamed; but to defend a TEST-LAW in general. By which I understand *some sufficient proof or evidence required from those admitted into the administration of public affairs, that they are members of the religion established by law.*

And, in shewing the justice, equity, and necessity of a *test-law*, I shall proceed in the manner in which I set out, and have hitherto observed, of deducing all my conclusions, in a continued chain of reasoning, from the simple principles at first laid down.

Hitherto I have considered *that alliance*, between church and state, which produces an *establishment*, only under its more simple form, *i. e.* where there is but *one religion* in the state. But it may so happen, that either at the time of convention, or afterwards, there may be *more than one.*

I. If there be more than one at the time of convention, the state allies itself with the LARGEST of these religious societies. It is *fit* the state should do so, because the larger the religious society is, where there is

is an equality in other points, the better enabled it will be to answer the ends of an *alliance*; as having the greatest number under its influence. It is *scarce possible* it should do otherwise; because the two societies being composed of the same individuals, the greatly prevailing religion must have a majority of its members in the assemblies of state; who will naturally prefer their own religion to any other.

With this religion is the *alliance* made; and a full TOLERATION given to the rest, *in esse*, or *in posse* *. Yet under the restriction of a TEST-LAW, to keep them from hurting that which is *established*.

From this account of the origin of a *test-law* may be deduced the following COROLLARIES concerning an *establishment*. For,

1. From hence may be seen the reason why the *episcopal* is the *established* church, in ENGLAND; and the *presbyterian* the *established* church in SCOTLAND; and the equity of that CONVERSION; which our adversaries have represented as so egregious an absursidity, in point of right, that it is sufficient to discredit the reason of all *establishments*.

2. Hence too may be seen the truth of what was before observed, concerning the DURATION of this *alliance*: that it is PERPETUAL, but NOT IRREVOCABLE; *i. e.* it subsists just so long as the church, thereby established, maintains its superiority of extent: which when it loses to any considerable degree, the *alliance* becomes void. For the united church being then no longer able to perform its part of the convention, which is formed on reciprocal conditions, the state becomes disengaged. And a NEW ALLIANCE

* See note [A] at the end of this Book.

is, of course, contracted with the now prevailing church, for the reasons which made the *old*. Thus, formerly, the *alliance* between the PAGAN CHURCH and the empire of Rome was dissolved; and the CHRISTIAN established, in its place: and, of late, the *alliance* between the POPISH CHURCH and the kingdom of England was broken; and another made with the PROTESTANT, in its stead.

II. If these different religions spring up *after* the alliance hath been formed; then, whenever they become considerable, a *test-law* is necessary, for the security of the *established church*. For amongst diversities of religions, where every one thinks itself the *only true*, or, at least, the *most pure*, every one aims at rising on the ruins of the rest *: which it calls, *bringing into conformity* with itself. The means of doing this when reason fails, which is rarely at hand, and more rarely heard when it is, will be by getting into the public administration, and applying the civil power to the work. But, when one of these religions is the *established*, and the rest under a *toleration*, then envy at the advantages of an *establishment* will join the *tolerated* churches in confederacy against it, and unite them in one common quarrel to disturb its peace. In this imminent danger, the *allied* church calls upon the state, for the performance of its contract; who thereupon gives her a TEST-LAW for her security: whereby an entrance into the administration (the only

* See an historical narration of the conduct of the early *Puritans* to make their discipline national in spight of the civil magistrate, in a curious account printed 1593, and intitled, "Dangerous Po-"sitions and Proceedings published and practised within this "Island of Brytaine, under pretence of Reformation and for the "Presbiterial Discipline."

way,

way, the threatened mischief may be effected) is shut to all but members of the *established* church. So when the *sectaries*, in the time of Charles the First, had, for want of this law, overturned the *church* of *England*; as soon as the government was restored, and replaced on its old foundations, the legislature thought fit to make a *test-law* * (though with the latest; and, what was worse, with the narrowest views) to prevent a repetition of the like disasters. A law, on its first enacting, confessed, on all hands, so *equitable* as well as *expedient*, that the celebrated lord Digby, then earl of Bristol, eminent for his parts of speculation and business, though at that time a *papist*, largely acknowledged the high wisdom of it, by arguments of great weight and validity. When the Bill was first brought into the House of Lords, the noble earl delivered his mind to this effect:—"He declared him-"self a catholic of the *church*, not of the *court*, of "Rome; and therefore spoke as a faithful member "of a Protestant parliament. The bill, he observed, "was brought up from the House of Commons, the "representatives of the people, and consequently "the best judges of the temper of the nation. A "bill as full of moderation towards Catholics, as of "prudence and security towards the religion of the "state: all the particulars of it being reduced to this "one intent, NATURAL TO ALL SOCIETIES OF MEN, "of hindering a lesser opposite party from growing "too strong for the greater and more considerable "one. And in this just way of prevention (says he) "is not the moderation of the House of Commons "to be admired, that they have restrained it to this "sole point of DEBARRING THEIR ADVERSARIES "FROM OFFICES AND PLACES? However, the sen-

* In 1671.

" timents of a Catholic of the church of Rome may " oblige me, upon scruple of conscience in some par- " ticulars of this bill, to give my negative to it, when " it comes to passing; yet as a member of a Pro- " testant parliament my advice prudentially cannot " but go along with the main scope of it."

Thus a TEST-LAW took its birth; whether *at*, or *after* the time of *alliance*. And from this moment the justice and equity of an ESTABLISHED CHURCH began to be called in question. It will be therefore proper, in the next place, to shew that the state is under the highest obligations to provide the church with this security.

## CHAP. II.

### OF THE NECESSITY AND EQUITY OF A TEST-LAW.

WE have now proved the equity and necessity of the *Alliance between Church and State*; and have therefore a right to use it as a *principle*, in our further inquiry.

I. By this *alliance*, the state promised to protect the church, and to secure it from the injuries and insults of its enemies. An attempt, in the members of any other church, to get into the administration, in order to deprive the established church of the covenanted rights which it enjoys, either by sharing those advantages with it, or by drawing them from it, is highly injurious. And we have shewn, that where there are diversities of religions, this attempt will be always making: the state then must defeat that attempt: But there is no other way of doing it, than by hindering

hindering its enemies from entering into the administration: but they can be hindered only by a TEST-LAW.

II. Again, This promise of protection is of such a nature, as is, on no pretence, to be dispensed with. For, protection was not only a condition of alliance, but, on the church's part, the *sole* condition of it. We have shewn, that all other benefits and advantages are *foreign* to a church, *as such*, and *improper* for it. Now the not performing the *sole condition* of a convention virtually destroys and dissolves it: especially if we consider that this sole condition is both *necessary* and *just*: *Necessary*, as a free convention must have mutual conditions; and, but for *this*, one side would be without any: *Just*, as the convention itself is founded on the laws of nature and nations; and *this* the only condition which suits the nature of a church to demand or expect.

III. But again, the church, in order to enable the state to perform this *sole condition*, the affording of protection, consented to give up its supremacy, and independency, to the civil sovereign. Whence it follows, that whenever the enemies of the established church get into the magistrature, to which, as we said, the supremacy of the church is transferred by the alliance, she becomes a prey, and lies entirely at their mercy: being now, by the loss of her supremacy, in no condition for defence, as she was in her natural state, unprotected and independent. So that not to secure her by a *test-law* is betraying, and delivering her up bound, to her enemies.

Thus it is seen what obligation the state lies under, from compact, of providing a *test-law* for the security

of the *established church:* and, by inforcing this obligation, from the last motive, we have obviated the only plausible objection that could be made to our account of this *condition of protection:* which is, "That if an union between church and state be, as we have represented it, so necessary for the well-being of civil society, how happened it, that that universal charity to mankind, which is the characteristic of true religion, could not engage the church to enter into union, without standing upon terms of advantage to itself: especially such as necessarily introduce a *test-law,* so full of inconvenience to the subject?"

This objection, though already obviated, shall be now considered more particularly. 1. We say, that religion constituting a political society, and it being of the nature of political society to seek support from alliances, the church was in a proper and reasonable pursuit, when it aimed at its own advantage in this convention. 2. We say, that as man, when he entered into civil society, necessarily parted from some of his natural rights, so the church, when it entered into *alliance* with the state, did the same. The right she departed from was her *independency*; which she transferred to the civil sovereign: for no alliance can be made between two such independent societies, till *one* hath given up its *independency* to the other; and this, the law of nations says, shall be the less powerful society: which in the present case, is the church. Now, as man received an equivalent for the natural rights he gave up; so, in all reason, should the church. 3. But lastly, we say, the church could not enter into alliance, and not stipulate for this condition, without concurring to its own destruction. It hath been shewn just before, that the *dependency* of the church on

the state necessarily follows an alliance: and, in the preceding paragraph, that, where a church, in this condition, hath enemies in the magistrature, and without means of defence in herself, she must expect the most fatal issue. Now the great law of self-preservation obliges her to provide against them. But no other provision can be made than engaging the protection of the state. Therefore we conclude, that the church's stipulating for that protection was not only what she in justice *might*, but what in duty she was *obliged* to do.

Here we might have concluded our inquiry; having, in a continued chain of reasoning, drawn from the most simple principles, explained the original and nature of civil and religious society; and, from thence, deduced our main conclusions, The NECESSITY OF AN ESTABLISHED CHURCH, and The JUSTICE AND EQUITY OF A TEST-LAW.

But, that nothing may be wanting to put so important a matter out of controversy,

## II.

I proceed, in the next place, to shew, that had no promise of protection been made, yet the state would have lain under the most indispensable necessity of providing a *test-law* for *its own* security. A celebrated writer, who, as far as *religion* hath to do with *politics*, was no bad judge, either of its essential or accidental effects, speaking of a TEST-LAW, scruples not to pronounce, "That no man ought to be trusted "with any share of power under a government, who "must, to act consistently with himself, endeavour "the destruction of that very government *."

* Lord Bolingbroke's Letter to Sir W. Windham; where, if in any place, he delivers his real opinion.

It

It hath been observed, that wherever there are diversities of religion, each sect, believing its own the true, strives to advance itself on the ruins of the rest. If this doth not succeed by force of argument, these partisans are very apt to have recourse to the coactive power of the state: which is done by introducing a party into the public administration. And they have always had art enough to make the state believe, that its interests were much concerned in the success of their religious quarrels. What persecutions, rebellions, revolutions, loss of civil and religious liberty, these intestine struggles between sects have occasioned, is well known even to such as are least acquainted with the history of mankind.

To prevent these mischiefs was (as we have shewn) one great motive for the state's seeking *alliance* with the church. For the obvious remedy was to *establish* one church, and give a *free toleration* to the rest. But if, in administering this cure, the state should stop short, and not proceed to exclude the *tolerated* religions from entering into the public administration, such imperfect application of the remedy would infinitely heighten the distemper. For, before the *alliance*, it was only a mistaken aim in propagating truth, which occasioned these disorders: but now, the zeal for opinions would be out of measure inflamed by envy and emulation; which the temporal advantages, enjoyed by the *established* church, exclusive of the rest, will always occasion. And what mischiefs this would produce, had every sect a free entry into the administration, the reader may easily conceive.

Now this being the inevitable fate of every government where religion is *established*, with diversity of sects, and without a test-law; and an *established religion* being proved indispensably necessary to society;

we

we must conclude, that the state has the most pressing reasons to provide a test-law, as well for its own security, as for the discharge of its contract with the church *.

If it be said, That would men content themselves, as, in reason, they ought, with enjoying their own opinions, without obtruding them upon others, these evils, which require the remedy of a *test-law*, would never happen. This is very true: and so, would men but observe the rule of right in general, there would be no need to have recourse to civil society to rectify the evils of a state of nature.

## CHAP. III.

### IN WHICH THE OBJECTIONS TO THE EQUITY AND EXPEDIENCY OF A TEST-LAW ARE CONSIDERED.

HAVING gone thus far, the argument leads us to give some good account of the principal *objections* against the EQUITY of a *test-law:* the way being now cleared to a ready and satisfactory answer.

I. The first *objection*, the sheet-anchor of the cause, is this, "That every qualified subject having a right "to a share of the honours and profits in the disposal "of the magistrate, the debarring him from these advantages, for matters of opinion, is a violation of "the common rights of subjects." This goes directly to the essentials; and attacks the very JUSTICE and EQUITY of a *test-law:* the other objections being only against the use and expediency of it.

* See note [B] at the end of this Book.

If

If then it can be shewn, that our adversaries have here taken for granted a thing, which, though by reason of mistaken notions of government, was never in dispute, is yet utterly false; we shall quite overthrow all that ostentatious declamation by which they have endeavoured to discredit a *test-law*. I say, therefore, that this pretended *right of every qualified subject to a share of the honours and profits in the disposal of the supreme magistrate* is altogether groundless and visionary.

Let it be remembered, that, in the third chapter of the first book, it hath been proved at large, that REWARD IS NOT ONE OF THE SANCTIONS OF CIVIL SOCIETY: the only claim which subjects have on the magistrate, for *obedience*, being *protection*.

Now the consequence of this is, that all places of honour and profit, in the magistrate's disposal, are not there in the nature of a TRUST; to be claimed, and equally shared by the subject: but of the nature of PREROGATIVE; which he may dispose of at pleasure, without being further accountable, than for having such places *ably* supplied.

All right of claim then being absolutely at an end; and consequently, all *injustice*, in excluding at pleasure; we might here finish our discourse, having taken from our adversaries the great *palladium* of their cause.

But, secondly, should we for argument's sake suppose, what is absolutely false, that the subject had a *right*; yet still it will be found to be amongst those rights, which are not *claimable*. For let it be again remembered, that in speaking of moral *duties*, we observed, they were of two kinds, of *perfect* and *imperfect* obligation: and therefore answerable to these, must needs be the *rights* arising from them. Those which

which arise from the duties of perfect obligation being *claimable*; and those from imperfect obligation, not so. But an equal dispensation of public honours and profits can never be thought other than in the class of duties of imperfect obligation, such as, in private men, *gratitude*, *hospitality*, *charity*; and consequently the right to them cannot be *claimable*, even when abusively withheld.

But, to leave nothing unanswered, let us, for a moment, wave these advantages; and, for argument-sake, as before, suppose this COMMON RIGHT OF SUBJECTS; and then the proposition will come to this, —*That to exclude a citizen from his civil rights, for matters of opinion, is a violation of the common rights of subjects.*

This proposition, we see, is founded on these two others, 1. *That opinions cannot be punished, because punishment can be inflicted only for matters in which the will is concerned, and the will is not concerned in matters of opinion.* 2. *If opinions could be punished, they are not within the civil magistrate's jurisdiction; his care extending only to bodies.* Now if it can be made appear that these two latter propositions give no support to the former, we must conclude that the *objection* is, even in this sense, vain and groundless.

To the first proposition I reply, that it is indeed universally true; but not at all to the purpose: the disqualification, by a test-law, being no PUNISHMENT in the true sense of the word, which is that implied in the proposition. To the second, I say, that it is not universally true: for that when opinions do, directly and necessarily, affect the peace of society, they then come within the magistrate's jurisdiction; and that this exception takes place in the case before us; the opinions,

opinions, which a test-law makes matter of disqualification, directly and necessarily affecting the peace of civil society.

1. The first assertion is thus proved; evil of all kinds, and whencesoever proceeding, man hath, by nature, a right to repel. Evil which proceeds not from the will is called a *mischief*; and may be simply repelled: and this repulsion is called RESTRAINT: evil which proceeds from the will is called a *crime*; and may, not only, be repelled, but have additional pain, more than sufficient for the restraint, inflicted on the author; and this repulsion is properly called PUNISHMENT. That punishment should not be inflicted for a mischief, that is, for an evil in which the will is not concerned, is plain from hence; the *end* of that additional pain, more than is sufficient for restraint, called punishment, being *a satisfaction to justice*, for *the reformation of the offender*, and for *example to deter others*; it would be absolutely unjust to inflict *avenging* pain for what was involuntarily committed: and altogether impertinent to attempt to deter, by *example*, from involuntary actions. The utmost therefore that can be inflicted for a *mischief* is *restraint*; that is, just so much pain, when the mischief proceeds from a rational agent, as is necessary to repel that mischief. Thus is *restraint* properly annexed to *mischief*; and *punishment* to *crimes*.

Such distinct and precise *moral modes*, one would think, it was not very easy to confound. And yet they have been confounded; so as utterly to embarras all our reasonings on this subject. It is true, while they are considered in their application to irrational and rational agents, the difference is seldom mistaken; but when they are both applied to rational agents, then

then it is that men begin to confound the ideas, and lose sight of all these marks of distinction. For, 1. *pain* being an inseparable *idea* in punishment; and every *restraint* of a rational agent having some degree of pain attending it; this idea common to both led them to think the two terms, in each of which it was found, were synonymous. 2. *Restraint* of a rational agent being defined to be an infliction of *just so much* pain as is necessary to repel the evil, and *punishment* to be an infliction of *more* than is necessary for that purpose, men considered the difference as only from less to more: and applying *this* to *mischiefs* and *crimes* set together in comparison, instead of applying it to *mischiefs* compared with *mischiefs*, and *crimes* with *crimes*, even this small difference was lost and confounded. Because, where the *mischief* is vastly more obstinate, and difficult to eradicate than the *crime*, there the pain attending the mischief must be more and greater than that attending crime. The use and solidity of our distinction may be illustrated by this example. There are four sects, whose principles, our adversaries will not deny, ought to be restrained—The ATHEIST, the ENGLISH PAPIST, the GERMAN ANABAPTIST, and the QUAKER, all hold opinions pernicious to civil society. But these having different degrees of malignity, must have different degrees of restraint. The ATHEIST, who is incapable of giving security for his behaviour in community, and whose principles directly overthrow the very foundation on which it is built, should certainly be banished all civil government. The ENGLISH PAPIST, who owns a foreign ecclesiastical power superior to all temporal dominion, should not be tolerated in any sovereign state. The GERMAN ANABAPTIST, who holds capital punishment to be sinful, should be debarred the magistracy.

magistracy. And the QUAKER, who believes even defensive war to be unchristian, should be excluded, in states upon the continent, the common liberty of residing in frontier places. Now these different degrees of pain do not make one a *punishment*, and the other, a *restraint*; but, being every one proportioned to the malignity of their respective evils, and no more than what is just necessary to repel them, they are all equally *mere restraints*. But now extend these pains and penalties, to the burning of the Atheist; to the banishing of the Papist; to the denying of civil protection to the Anabaptist; and of religious toleration to the Quaker; and then, notwithstanding the same diversity of degrees, they are all *punishments*, and none *mere restraints*. Because more pain is in every case inflicted, than is necessary to repel the respective evils.

I have only then to shew, that the pain inflicted by a test-law is no more than just necessary to repel *the evil of diversity of sects when got into the administration:* and, consequently, that it is a *restraint only*.

To make this evident, let us suppose a person able, in one certain place only, to do mischief; and that he is disposed to do it: it is plain, there are no other means of repelling this evil than by debarring his entrance into *that* place. These means then are necessary: but what is necessary to repel an evil is *a restraint only*. But were this pain extended; and, because the person can do mischief in one place, he is debarred entrance into ten, then the *pain* becomes a *punishment*, because more than necessary for repelling the evil. This is exactly the case in hand. Diversity of sects can do mischief only by getting into the administration: therefore to keep them out, is, for the

the reasons above, only a *restraint*. But, were their civil incapacity extended further, then it would become a *punishment*. By the test-law, it is not extended further; therefore it is no punishment, but a restraint only.

Had the force of this reasoning been duly considered, it might, I apprehend, have soon decided a late famous question, yet, it seems, undetermined.

By the custom or constitution of one of our great incorporated bodies, some or other of its members are annually called upon to discharge a very important, though very onerous office. Now, if such a one happens to be a *separatist*, he takes the advantage of the *test-law*, which, under great penalties, forbids his entrance on this office, till he has given certain marks of his conformity to the established worship; to give which, he makes matter of conscience; and from which, he is at liberty to dissent by the act of *toleration*. This renders him incapable of serving. But it having been long the custom for members, thus appointed to this important service, to purchase, of the body, an exemption, at a large price, by way of fine, it was thought reasonable to demand it of the *non-conformist* who cannot serve, as well as of the *conformist*, who will not. And when it was urged, that this fine could only be equitably inflicted on those who willingly declined a permitted office; not on those, upon whom the law had laid an embargo, to stop their entrance into it; it was thought sufficient to reply, "That the law, of which the *non-conformist* would thus avail himself, was never intended for his advantage or emolument: for which, it would be frequently brought to serve, if this plea were admitted." The question therefore to be decided was this, "Whether he who *cannot* serve, is by law, equally obnoxious to the fine, with him who *will not?*"

Now, I humbly conceive that this question can be then only resolved with justice and precision, when the TRUE NATURE of a *test-law* has been previously settled. I have laid down the principles which lead to it; and on them I argue thus *.

Were this law ordained to *draw* or to *drive* dissenters into the national *church*, the prohibition from entering on certain civil offices was without doubt intended for a PUNISHMENT. But if the LAW were ordained, only to keep dissenters out of those stations in the *state*, in which, by injuring the establishment, they would violate the peace of society, then certainly the prohibition was intended for a RESTRAINT only; and becomes a *punishment* but by accident.

Now, were it intended for a PUNISHMENT, the customary *fine*, on those who do not serve, would be most LEGAL: and, in such case, the reasoning of the body against the non-complying members, "that the legislature, by this law, never intended the dissenter should receive civil benefit or emolument," will not be without its force; for a *benefit* defeats the end of *such a law*. But if the *test* impose a RESTRAINT only, and it become a *punishment* but by accident, it may, without the least evil influence on that law, become a *benefit* likewise by accident. Nay, to hinder this fair chance, would be cruel and unjust: for if, by the inevitable condition of human things, particulars receive *damage* by a law which respects the general; and which never had such damage in its intention; it is but fit, they should have the like chance of a *benefit*, though equally without the intention of the legislature.

Indeed, where the unprovided for, or unthought of, consequence tends naturally to defeat the purpose o

* The following argument was first printed in the spring of the year 1762, in the book called *the Doctrine of Grace*.

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the law, there the authorized interpreters of it will interpose, and declare the advantage taken to be against the law; or, which amounts to the same thing, unsupported by it. But an accidental *benefit*, which arises from a simple restraint, seems better calculated to effect the end of the test-law than a *damage*; since the first tends to keep the enemies of the church from office in the state; the second is a temptation to them to get in, by the violation of conscience. The *benefit* is indeed liable to abuse, (and what is there in civil matters which is not?) Yet this abuse does not affect the purpose of the law, which is to keep sectaries out of civil offices.

But let it not be supposed that any thing here said in favour of the honest Sectarian member, is meant to include the OCCASIONAL CONFORMIST. For if such a one can think, that he may, with his conscience unhurt, *conform* for the sake of *lucrative* employments, he should never be permitted, on pretence of conscience, to plead the restrictive law, in order to evade those which are *onerous*. And here let me further observe, that the *dissenters* will not seem to be in the properest disposition to claim the advantage of the distinction here laid down in their favour, till they have a little reformed their ideas of a *test-law*. For they have generally, I think, in order to throw the greater odium on it, represented the embargo which it lays upon them, as a thing inflicted for a PUNISHMENT. Now it hath been shewn, that if our lawgivers intended a *punishment*, it would defeat their whole purpose to connive at its becoming an *accidental benefit*.

But now it appears, both from reason and fact, that the TEST is a *restrictive* and not a *penal law* in the proper meaning of these terms. For,

1. If a law may be understood in two senses, one of which supports its equity, while the other betrays its injustice, reason directs us to adopt the first. To *punish* sectaries, in order to bring them over to the national religion, is plainly iniquitous; but to *restrain* sectaries from injuring the national religion, is evidently just. Therefore, had the intention of the legislature in this case been doubtful, yet a *general law of a free people* would admit of no other interpretation than this latter.

2. But the intention of the legislature is not doubtful. This reasoning is supported by fact. When the law was made, the national church was thought to be in danger equally from *Protestant* and *Popish* sectaries. In the early days, indeed, of the established church, the government had endeavoured to bring both into submission to it, and many PENAL LAWS were enacted for this purpose. But by that time the *test* became a law, so visionary and unjust a project had been long in discredit: and government was now content to confine its care to the *protection*, rather than to the *extension*, of the national church. Had this latter point been their aim, it was to be effected only by a vigorous execution of the old *penal laws* then, and still in being, though long kept dormant. The test added no force to those, but on the contrary greatly relaxed their activity, by disposing government to place their chief confidence, and seek their only remedy for disorders, in this new-made law.

And now the reader may see the strength of that objection made to the *test-law*, as at present inforced to affect the interests of Protestant dissenters, *viz.* "That its original and direct intention was to oppose to the machinations of Popery; and therefore, that

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the other, being included only by accident, may very reasonably be overlooked." But if the idea here given of the *test-law* be right, it is apparent that the general, though perhaps not the immediate, purpose of the legislature in framing it, was to provide (and this, in behalf of the state) for the safety of the national church, from what quarter soever the danger might arise. At one season it might arise from *Popery*; at another, from *Puritanism*; but the various civil mischiefs, consequent on religious quarrels, were to be repelled as they sprung up with equal vigilance and vigour. But let no one imagine, that a *comparison of demerit* is here insinuated between Popery and Puritanism. As religions, they are no more to be set together, in the opinion of an English episcoparian, than a body irrecoverably corrupted, and one but slightly tainted. Yet with regard to the civil mischiefs which religious rancour, when let loose, may occasion, we have constantly experienced, that the *slightest* matters often produce as great, as the most *weighty*. And the surplice and the cross in baptism have set fellow-citizens against each other with as much inveterate hate, as the tyrannic claim of the Pope's supremacy, or the idolatrous worship of dead men deified. However, the nature and genius of the two sects is sufficiently discriminated by law, in *tolerating* the one, and only *conniving* at the other, under suspended penal-statutes; but still on the same *civil principles*: these *sanguinary laws*, as they are called, not being directed against the religious errors of the CHURCH, but against the political usurpations of the COURT OF ROME; which, when these laws were made, excited men by Papal edicts to parricide and rebellion; and will not yet suffer its subjects to give any reasonable security to the *civil sovereign*. For, with *religious errors*, *as*

*such*, the state hath no concern: they are the *civil mischiefs* with which civil society hath to do; mischiefs arising from religious quarrels, where the two parties are nearly equal in power (as, I suppose, Protestant sects, which differ only in smaller matters, would soon be, under a *toleration* without a *test-law*), and are set upon combating one another's ERRORS.

But let me not be misunderstood, as if, from what hath been here said in behalf of *toleration*, I would insinuate, that this law hath altered the nature of the crime going under the name of SCHISM; which is an unnecessary separation from the national church; or because the law hath taken away all civil punishment from Protestant dissenters, some of whom may possibly so offend, that therefore *schism* is become an innocent, and an empty name. And that the law in favour of SCHISMATICS, like that in favour of WITCHES, has dissipated only a frightful fantom. It is true, that in both cases, the legislature acted for the same general end, the *restraint of injustice*; but it was on very different principles: in the first case, they took off civil punishment from a *real crime*, not cognizable by a human judicatory; and in the latter, they removed an opprobrium from the statute-book, which expressed a sanguinary resentment against an *imaginary one*.

SCHISM, or a causeless separation of a member from the national church, is a crime which, on all the principles of law and reason, deserves condign punishment. But of *separation*, whether with or without cause, there is no adequate judge, but that power who is able to distinguish between a well, and an ill-informed conscience. Very justly therefore did this free government remit the question to an omniscient tribunal. But, in so doing, it did not mitigate, but,

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by its indulgence, rather aggravate the guilt, wherever it shall be found, hereafter, to exist. And how wisely so doubtful a point was remitted thither, we may, in part, see from the answer of the *foreign divines*, to whose judgment, at the beginning of our Reformation (when the quarrel between the Puritans and Churchmen, about habits and ceremonies, ran high) both parties agreed to submit. Those prudent and honest men, when thus appealed unto, gave it as their deliberate judgment, "THAT THE PURITANS OUGHT TO CONFORM, RATHER THAN MAKE A SCHISM: AND THAT THE CHURCHMEN OUGHT TO INDULGE THE OTHERS' SCRUPLES, RATHER THAN HAZARD ONE." A wise decision, and reaching much further, in religious matters, than to the single case to which it was applied.... But to return.

2. We come now to our second assertion, and say, that *it doth not hold universally true, that the civil magistrate hath nothing to do with opinions:* For, that when they directly and necessarily affect the peace of civil society the coercion of them is in his jurisdiction: and this even our adversaries themselves confess. Which would they uniformly hold, we should take on their words, and proceed. But though they allow this maxim in speculation, yet they can rarely be brought to see its justice or fitness in practice. Which would tempt one to think, that the evident mischiefs arising from some opinions had forced this general confession from them, in spite of principle; the prejudice of which returning in particular instances drew them back into their old conclusion, that reason and truth were violated by the magistrate's interfering. I will in charity rather sup-

pose this to be the case, than that a spirit of licentiousness makes them retract in practice what they own in speculation; and shall therefore endeavour to convince them that this coercion, which all parties agree to be necessary, is likewise reasonable and safe.

Not at present then to insist on the argument of its *justice*, drawn from its *necessity* alone, we say, that the final end of every rational creature is happiness: and that the immediate end of such as are destined to two separate states of existence, is the happiness of that state in which they are existing. Otherwise the good of the creature in that station would not have been consulted by its creator. But as this cannot be said, it follows that whatever opposes the attainment of *that* happiness must be repelled; otherwise the purpose of the creator would be defeated. If this creature (*e. g.* man) be not only destined to two different states, but composed of two different natures, one of which is solely adapted to his present station, then the states must not only be separate, but different; and so, consequently, must be the *happiness* attendant upon each. But if the happiness be different, so must the *means* of attaining it. Thus the means of attaining man's happiness *here* is civil society; the means of his happiness *hereafter* is contemplation. If then opinions, the result of contemplation, obstruct the efficacy of civil society, it follows, that they must be restrained. Accordingly, the ancient masters of wisdom, who, from these considerations, taught, that man was *born* for *action*, not for *contemplation*, universally concurred to establish it as a maxim founded in the nature of things, *that opinions should always give way to civil peace.*

Again, if God destined man to two such states of existence,

existence, in each of which the happiness of the existing state was to be his end; it is demonstrable, and almost self-evident, that he, at the same time, so disposed things, that the means of attaining the happiness of one state should not cross or obstruct the means of attaining the happiness of the other. From whence we must conclude, that where the supposed means of each, namely, *opinions* and *civil peace*, do clash, there *one* of them is *not the true means* of happiness. But the means of attaining the happiness peculiar to that state in which the man at present exists, being perfectly and infallibly known to man; and the means of the happiness of his future existence, as far as relates to the discovery of unrevealed truth, but very imperfectly known by him; it necessarily follows, that wherever opinions clash with civil peace, those opinions are no means of future happiness: or, in other words, are either no truths, or truths of no importance.

Thus we have proved, that the magistrate's restraint of those opinions which are mischievous to civil society, is both reasonable and safe. Desiring to be understood, when we speak here of a *rational creature*, to mean the species; and when we speak of a *civil society*, to mean such as is formed on the principles of public liberty and common rights of subjects. For to unjust and unnatural governments, the most momentous truths will be mischievous and destructive: their end being private, not public utility. It is never then, but where the society stands on legitimate foundations, that its peace is to be preferred to opinions: and there, that preference will be always reasonable and just *.

* See this further illustrated above, in the proof of the proposition, *That truth and utility do necessarily coincide.*

I SHALL

I SHALL now shew, that what a *test-law* restrains, doth directly and necessarily affect the peace of civil society.

Where a determinate principle of some certain sect is particularly opposed to this or that fundamental maxim or usage of society, the malignity is seen, and confessed on all hands. Thus, of those opinions respectively held by the Atheist, the Papist, Anabaptist, and Quaker, mentioned above, there are few who see not their pernicious consequences; or will not own the *restraint* of them to be necessary. But where a religious principle opposes, not one certain maxim or usage, but the general constitution of civil society, the mischief of it is not so easily seen; and if it opposes, not so much the nature of civil society, considered alone, as when in union with the church, the mischief will be less observed: and if this be a principle not peculiar to one sect, but common to all, the mischief will be still less understood. This is the case with regard to the pernicious principle thus restrained. It being, as we have observed, that which sets every sect on attempting to establish itself on the ruins of all the rest.

Hence it is that men see the necessity, and seem to applaud the justice of restraint, in the first case; and yet, in the other, cry out against the tyranny of subjecting sects to civil incapacities, which hold no *peculiar opinions* pernicious to the state. But they seem not to apprehend, that the first is not the only legitimate reason which may be urged for the equity of restraint. For where is the difference, with regard to the state, between the principle's being *peculiar* to one sect, or *common* to all; between its injuriously affecting one certain maxim or usage, or the whole frame and composure of a state in union with a church; if

so be the restraint be common to all, as well as the principle? Henceforth then we hope to hear no more of the injustice of civil incapacities on a sect which holds nothing *peculiar*, that can injuriously affect the state.

Having now overturned the two propositions, upon which this famous objection stands, it will give us no further trouble, but leave us at liberty to conclude, *That to abridge a citizen of his civil rights for matters of opinion which affect society, is no violation of justice or natural equity.*

But if still our adversaries will persist in affirming a *test* to be contrary to the LAW OF NATURE; one may safely undertake to vindicate it, even on that supposition; as having the universal practice of mankind on our side; who, for the sake of civil society, have ventured, in their municipal laws, to deviate from the law of nature; and this, with as universal approbation.

But, to avoid obscurity, it will be necessary to say, in what sense the *law of nature* is to be understood. For an illiterate tribe of writers have, in this, as in most other matters, done their best to confound all ideas, and remove the marks and boundaries of science: while they make the *law of nature*, as it respects man alone (for that we have only to do with), "to signify "what right reason, taking in all circumstances, dic- "tates, in every case, to be done." Thus confounding the *law of nature* with *civil*, and all other laws. And in this sense, our inquiry into the agreement of a TEST with the *law of nature*, after a *test* hath been proved just and reasonable on the laws of society, would be very impertinent. But, by the LAW OF NATURE, is here meant *that*, which all the best writers on *natural* and *civil laws* thus define—*What reason prescribes, under the sole consideration of men's nature,*

*ture, and their mutual relations arising from thence, exclusive of all political or civil combinations.* And in this sense, an inquiry concerning the conformity of a *test-law* to the law of nature, may be very proper.

We say then, that it is a practice as approved as it is universal, for states, in compliance to the necessities of society, to form many of their municipal laws in direct opposition to the law of nature. The writings of the civil lawyers are full of these cases. I shall content myself with one or two. The case of that *civil* acquisition called PRESCRIPTION is very famous. This is, when a man, by enjoying for a certain time, without another's claim or opposition, the other's property, but possessed by him *bona fide*, acquires a full right in it; in such sort, that the true proprietor has no longer any civil action for the recovery of it. Now this most writers agree hath its sole foundation in the *civil law*. The incomparable Cujacius says expressly, *That the law of prescription directly contradicts the law of nature and nations, because the true proprietor is dispossessed of his own, without his consent**. And indeed nothing is more evident. For what I once had, I must ever have a right to; till I resign, transfer, or forfeit it by a voluntary act. What then was it which occasioned this general deviation from the

* Rursus dixerit aliquis, usucapionem pugnare cum jure gentium, quod ea dominium invito auferat. Est sane ita: pugnat enim hæc in re jus civile cum naturali æquitate, sed tamen hoc fit bono publico. Ait Caius, BONO PUBLICO USUCAPIO INTRODUCTA EST. *Comment. in Pandect. Tit. de Usurpationibus & Usucapionibus.*——*Caius* said this on good authority: for the *laws of the twelve tables* give PRESCRIPTION no force in contests between the subjects of one state and the subjects of another; but leave them to the decision of the *law of nature*. ADVERSUS HOSTEM ÆTERNA AUTHORITAS ESTO, say the *twelve tables*; which Cicero explains, "Hostis enim apud majores nostros is dicebatur qui nunc PEREGRINUM dicimus."

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law of nature but the public good? It is of the highest concernment to the state that particulars be secure in their possessions without contest. But there can be no security, if the natural proprietor hath, for all time coming, the liberty to reclaim his right. This would obstruct commerce and discourage intercourse amongst citizens. For who would lay out for property, if for ever after old claims might be revived? In a word, the LAW OF PRESCRIPTION is so evidently against the *law of nature*, that those who deny this disagreement are forced to have recourse to that ridiculous signification of the *law of nature*, taken notice of above. For they say, *prescription is not against the law of nature, because this law orders, in every thing, what reason says (all circumstances taken in) is fit to be done.* Now which way soever the law of prescription be defended, whether by owning it to be against the law of nature, and justifying the deviation from it, by public utility; or by denying it to be against that law, as here absurdly interpreted; the defence will serve equally for a *test-law*, though we should concede to the objection, that it is against the law of nature; which we do not, having largely proved that it is perfectly agreeable to that law in its true and proper signification.

Another instance may be given of this practice in states, *pro bono publico*, which is more easily understood. When man entered into society; and *property*, in consequence thereof, was thoroughly regulated and established, several things were left out in that general appropriation; and still continued to become, as in the state of nature, the acquisition of the first occupant. Amongst these were what the lawyers call FERÆ NATURÆ. Yet, for all this, most states have

have concurred, against the law of nature, to enact GAME LAWS; whereby the right of capture is forbidden to all but those, who, by description, are designed not to be included in the prohibition. And the reason of such LAWS is evident: it was not at all for the *public good* to suffer peasants and mechanics to neglect their occupations, and to run up and down the woods and forests, armed: which in time, through their idle habits, and domestic distresses, draws them on to robbery and brigandage: nor to permit the populace, in towns and cities, to have, and carry *arms* at their pleasure; which would give opportunity and encouragement to sedition and commotions.

In this instance we all confess the justice, and see the reasonableness of impinging on the law of nature. How happens it then, that those who own it here will not own it in a *test-law*? Nothing sure, but this: RELIGION mixes itself in this latter affair; and the jealousies of its encroachment (which preposterously increase as its influence upon us abates) will not give us leave to judge impartially. And the truth is, *parties* must have a watch-word to carry on their business. There was a time, and that not long since past, when the word was, THE DANGER OF THE CHURCH. This served tolerably, while *religion* was seen to have an influence; but since a general spirit of licence hath *possessed* us, it hath been thought proper to change the cry; and we now hear of nothing but the DANGER OF OUR CIVIL LIBERTIES.

Having now, as is presumed, entirely overturned this bulwark of the cause,

1. By shewing that the rights pretended to are merely imaginary;

2. That

2. That if there be any such, it is no violation of the law of nature, to exclude a citizen from them, on account of opinions;

3. That though it be a violation of that law, yet still the exclusion may be well justified on the universal practice of society, arising from necessity—

Having, I say, done this, the remaining objections, which conclude only against the EXPEDIENCY of a test law, may be dispatched in much fewer words.

II. The next objection then is, *That a test-law is injurious to* TRUE RELIGION, *by encouraging one set of opinions, and discouraging the rest; which is clapping a false bias on the mind, that, in its search after truth, ought to be left entirely free and disengaged.* But it may be made appear, that a *test* is so far from being injurious to *true religion*, that it is, in the whole, highly serviceable to it.

Let us, 1st, then, examine how the *discouragement* affects it. Now admitting the *tolerated religion* to be the *true*; and that several of its members, under the discouragement of a test-law, will for the sake of civil advantages leave it, and come over to the *established religion*; we must yet conclude that, considering the smallness of the discouragement, they who leave it on that account, and knowingly embrace *a false*, must be very profligate and abandoned. Such as must disgrace the true religion while they continue of it, and otherwise highly prejudice it. Unless it be supposed to be more for the interests of true religion to have large crowds though of false and unworthy members, than smaller numbers of sincere professors. It is therefore highly for the interests of true religion to have such a touch-stone, or criterion, as the *test*, to discriminate its

its sincere from its corrupt adherents. Which, on this account, can no more be said to be injured by it, than gold is by fire, when, in trying the *ore*, it reduces its bulk, but increases its specific value. It is evident then, that this objection cannot, with any shew of reason, be made by a member of the *tolerated religion*.

2. Let us next see how the *encouragement* affects true religion. Our argument now leads us to suppose the *established* the *true*. On this supposition, is it not for the benefit of mankind in all his interests, that it should be supported by civil power? and can it be supported without a test? But to wave that consideration at present: It is owned, that as the use of religion arises from the real impression it hath upon the mind, the bringing in members, who make only an outward profession, is injurious to religion. However, none have reason to make this objection, but the established church. But considering the *smallness* of the *encouragement*, and the probability of the conformity's being on conviction (for the case supposes the *established* religion, the *true*), we have no reason to think this injury can prove of moment. But be it as it may, Is it fit so great a benefit to civil society should be lost on account of a small and partial injury, it may accidentally occasion? It will be time enough to attend to an answer, when our adversaries bring us an instance of any one signal *benefit* to mankind, in the improvement of civil life, which is not attended with some inconvenience. Till then we shall, perhaps, think ourselves at liberty to support *this*, though it be not exempt from the common lot to which all human things are subject.

But, 3. Admit some small casual *harm* to be thus derived

derived to religion; it is not only abundantly compensated by those vast advantages accruing to the state from thence, but likewise infinitely outweighed in the good done to religion by *an establishment*, on which a *test* is built, and from which it necessarily flows. We have shewn, and it cannot be too oft repeated, that the state entered into alliance with the church, for the sake of public utility: we have proved, and it cannot be too much inculcated, *that public utility and truth do coincide:* Hence it follows, that falsehood, the reverse of truth, must be destructive of public good; and the consequence of this is, that the state must, for the sake of public utility, seek truth, and avoid falsehood: at the same time, as she so well knows in *what* public utility (which is a sure rule and measure of truth) consists, she will be much better enabled to find out truth than any speculative inquirer, with the boasted aids of philosophy and the schools. From all this it appears, that while a state, in union with the church, hath so great an interest and concern in true religion, and so great a capacity for discovering what is true; *religion* is likely to thrive much better than when left to itself; which hath been more fully shewn in treating of the first motive the state had to seek an alliance with the church.

If it should be still urged, that though, indeed, true religion be not injured by a TEST, yet private men are, as having a *false bias* clapped upon their minds, which draws them, by hopes and fears, from the *true* to *false* religion: it may be replied, that were the rewards and discouragements of a test-law so great as to make those who complied *not* with its threats and invitations uneasy in civil life, and, consequently, those who *did*, to fall through mere human frailty, the objection would be plausible. But when these

rewards and discouragements are so small as to tempt only the most profligate and abandoned, little injury is done: for what pretence can such men have of a right to be put under cover for every the slightest temptation?

III. The third objection is, *That a test-law may endanger religious liberty. For if, for the good of the state, all, but those of the established religion, may be kept out of the administration; then for the same good, if reasons of state so require, they may be restrained the exercise of all but the established religion. And a pretence will not be wanting; for it is certain that diversities of sects oft produce the worst consequences to a state.* To this it may be replied, 1. That though we have reasoned, from the good of society, to prove the necessity of a test, yet that was not till after we had shewn the justice of it from the clearest principles of the laws of nature and nations. But these laws oppose the taking away religious liberty, that is, freedom to worship God according to one's own conscience, on any pretence whatsoever.—2. But we say further, that those very principles of the laws of nature and nations, laid down in the first part, to prove the equity of an established religion and a test-law, and on which the whole theory depends, do, in an invincible manner, establish the DIVINE DOCTRINE OF TOLERATION, or the right of worshipping God according to every man's own conscience. So that this *theory* is so far from giving any entrance (as the objection supposes) to the infringement of *religious liberty*, that it lays the foundations of it on the only solid and impregnable grounds. For on these two cardinal principles, on which, as on two hinges, the THEORY is raised and turns, namely,

namely, *That the state hath only the care of bodies, and the church only the care of souls*; and *that each society is sovereign, and independent of the other*, is clearly deduced the indefeasible right of religious liberty.—3. But still further. An easy answer may be now given to the old plea of *necessity of conformity, from the danger, to the state, of diversity of religions*, hinted at in the objection. For the mischief of that *diversity* ariseth solely from the infringement of religious liberty. Do but once grant a toleration, with the establishment of *one*, and an exclusion of all the *rest* from the public administration, and the evil vanishes, and *many* religions become as harmless as *one*. It being only the tyrannic usurpation of the magistrate, upon the rights of religion, that made diversity of opinions mischievous and malignant.—4. But lastly, we say, that, even on our adversaries' supposition, the objection has no force. For had a *test-law* been justified, by arguments drawn solely from the good of the state, yet this very principle, if pursued, would be so far from endangering *toleration*, that it would perfectly secure it. For to make religion serviceable to the state, which is the great end of an *establishment*, it must make a *real* impression on the mind; this is evident from what hath been observed in the first book. Now religion seldom or never makes a real impression on the mind of those who are forced into a church; all that forcing to outward conformity can do, is to make hypocrites and atheists. Therefore, for the sake of the state, the profession of religion should be free. Hence may be seen the strange blindness of those politicians, who expect to benefit the state by forcing to outward conformity: which, making men irreligious, destroys the sole means a church hath of serving the state. But here, by a

common fate of politicians, they fell from one blunder to another. For having first, in a tyrannical adherence to their own scheme of policy, or superstitious fondness to their own scheme of worship, infringed upon religious liberty; and then beginning to find, that diversity of sects was hurtful to the state; as it always will be, while the rights of religion are violated; instead of repairing the mistake, and restoring religious liberty; which would have stifled the pullulating evil in the seed, by affording it no further nourishment; they took the other course; and endeavoured, by a *thorough discipline of conformity*, violently to rend it away; and, with it, they rooted up and destroyed all that good to society which so naturally springs from religion, when it has taken a real hold.

IV. The last objection is, *That a test-law is the novel invention of a bigotted and barbarous Gothic policy: unknown to the polite and happy ages of* Greece *and* Rome, *when civil and religious liberty flourished beyond compare.* So near as I now am to the conclusion of this discourse, it would stay me too long to detect our adversaries' gross ignorance concerning the condition of religious liberty in the antient world *: upon which errors the objection is built. It shall suffice, at present, to tell them, they are mistaken in their fact. These happy people had, like us, their ESTABLISHMENTS and TEST-LAWS. Though perhaps it may surprise them, we cannot forbear to tell them, that even *Athens*, their *Athens*, so flourishing and free, had, in its best times, a *test-law* to secure the *established religion.* A test which was exacted of all their youth. For, *Athens* being a democracy, every citizen had a constant share in the administration.

* See The Divine Legation of Moses, Book II. § 1. 5. and 6.

And

est it was of the strongest kind, even an oath. of which is preserved by Stobæus *, who ibed this curious fragment from the writings e *Pythagoreans*, the great school of ancient pocs †. It is conceived in these words: "I will not dishonour the sacred arms, nor desert my comrade " in battle: I will DEFEND AND PROTECT MY " COUNTRY AND MY RELIGION, whether alone, or " in conjunction with others: I will not leave the " public in a worse condition than I found it, but in " a better: I will be always ready to obey the su- " preme magistrate, with prudence; and to submit " to the established laws, and to all such as shall be " hereafter established by full consent of the people: " and I will never connive at any other who shall " presume to despise or disobey them; but will avenge " all such attempts on the sanctity of the republic, " either alone, or in conjunction with the people: " and lastly, I WILL CONFORM TO THE NATIONAL " RELIGION. So help me those Gods who are the " avengers of perjury."

Here we see, that after every man had sworn, *I will defend and protect the religion of my country*, in consequence of the obligation the state lies under to protect the *established worship*, he concludes, *I will conform to it:* the directest and strongest of all *tests*. But

* Οὐ καλαισχυνῶ ὅπλα τὰ ἱερὰ, οὐδ' ἐγκαλαλείψω τὸν παραστάτην, ὅπου ἂν στοιχήσω. ΑΜΥΝΩ ΔΕ ΥΠΕΡ ΙΕΡΩΝ, καὶ ὑπὲρ ὁσίων, καὶ μόνος, καὶ μετὰ πολλῶν. τὴν πατρίδα δὲ οὐκ ἐλάσσω, παραδώσω πλείω δὲ καὶ ἀρείω, ὅσην ἂν παραδέξομαι. καὶ εὐπειθήσω τῶν αἰεὶ κρινόντων ἐμφρόνως, καὶ τοῖς θεσμοῖς τοῖς ἱδρυμένοις πείσομαι, καὶ ὃς τινας ἂν ἄλλος τὸ πληθος ἱδρύσηται ὁμοφρόνως, καὶ ἄν τις ἀναιρῇ τὲς θεσμὲς ἢ μὴ πείθηται, οὐκ ἐπιτρέψω, ἀμυνῶ δὲ καὶ μόνος, καὶ μετὰ πάντων. καὶ ΙΕΡΑ ΤΑ ΠΑΤΡΙΑ ΤΙΜΗΣΩ· ἵστορες θεοὶ τάτων. Joan. Stobæi de Repub. Serm. xli. p. 243. Edit. Lugdun. 1608.

† See The Divine Legation.

a test of conformity to the established worship was not only required of those who bore a share in the civil administration, but of those too who were chosen to preside in their religious rites. *Demosthenes* has recorded the oath which the priestesses of *Bacchus*, called Γεραιραὶ, took on entering into their office: "I "observe a religious chastity, and am clean and pure "from all other defilements, and from conversation "with man: AND I CELEBRATE THE THEOINIA "AND IOBACCHIA TO BACCHUS ACCORDING TO "THE ESTABLISHED RITES, AND AT THE PROPER "TIMES *."

So that those, with whom the authority of the WISE ANCIENTS have so much weight, will, we hope, from this example in the wisest of them, begin to entertain a better opinion of a *test-law*, and of a religion so *established*.

But a stronger evidence of the indispensable necessity of these things, for the support and security of government, can hardly be given, than in the example of the famous *William Penn*, one, who by his principles was most averse to it, who strove most to avoid it, and yet is forced to have recourse to it. We have seen before, how the same man, as *head of a sect*, had, by a side-wind, introduced SOCIETY into religion. We shall now see that, when become a *lawgiver*, he found an equal necessity of having that society ESTABLISHED, and securing his establishment by a *test law*. In his *Frame of Government for the Province of Pennsilvania in America*, we have amongst his *fundamental constitutions* these following; "That

* Ἁλιτεύω, καὶ εἰμὶ καθαρὰ, καὶ ἁγνὴ ἀπὸ τῶν ἄλλων ὧν καθαρεύουσιν, καὶ ἀπ' ἀνδρὸς ζυνουσίας, καὶ τὰ Θεοινια. καὶ Ἰοβακχεῖα γεραίρω τῷ Διονύσῳ ΚΑΤΑ ΤΑ ΠΑΤΡΙΑ, καὶ ἐν τοῖς καθήκουσι χρόνοις. Orat. cont. Neæram.

"all

" all Persons living in this Province, who confess and " acknowledge the one Almighty and Eternal God to " be the Creator, Upholder, and Ruler of the World, " shall in no wise be molested or prejudiced for their " Religious Persuasion or Practice in matters of " Faith and Worship." And, " That all Treasurers, " Judges, Masters of the Rolls, Sheriffs, Justices of " the Peace, and other Officers and Persons what- " soever relating to Courts or Trials of Causes, or " any other Service in the Government; and all Mem- " bers elected to serve in Provincial Council, and " General Assembly, and all that have right to elect " such Members, shall be such as profess Faith in " Jesus Christ."

By these laws an *established religion* is first of all constituted, which is the Christian: and, secondly, a *test*, which excludes all, but such, from a share in the administration, even the remotest share, as electing representatives to serve in provincial council and general assembly. And, all this, in as good legal form as the PRIEST himself could wish: only (as arising from a necessity not to be gloried in) a little disguised in the expression, by the use of *affirmative* rather than *negative* terms. As to the large and extensive conditions of this *establishment* and *test*, that is another question. What these CONSTITUTIONS are here cited for, is to shew the necessity of the things themselves.

I have but one further observation to make, before I end this chapter: it is, that the grand and palmary argument against a *test* concludes, with equal strength, against an *establishment*; unless, perhaps, our adversaries have discovered, that the clergy are to have no share with the laity, in the *common rights of subjects*. For it hath been shewn above, that one of the essential

privileges of an *established* church is a public maintenance for its clergy, given by the state, in reward for their services in teaching the people virtue and obedience. Now as the ministers of all the tolerated churches do, or profess to do, the same; they seem to have something a better pretence to a share in these places of profit, possessed by the endowed clergy, than their lay-brethren have to what the laity of the established church hold from them. At least it must be said, that the *injustice* of debarring either, for matters of opinion, is equal. I make no question but those with whom we have to do, like their *principle* the better for this generous and impartial consequence. But it is not their approbation I am so much concerned to procure. I now address myself to the lovers of their country under the present constitution of church and state. I would shew them, in what our adversaries' principles necessarily terminate; *a total subversion of all established religion.* For this last claim puts an end to it at once. And shall we believe it will not be made whenever the other is obtained? Are not the ministers of the tolerated sects amongst the first to push on this demand of the *common rights of subjects?* have they less regard to their own advantage than to that of their flock? or are they, good men, persuaded, that these *common rights* extend not to churchmen?

However, the state, we may be sure, will be impartial in its justice. So that when once we see sectaries of all kinds supply the civil administration; the next place to look for them is in the pulpit and the stall.

## CHAP. IV.

### OF THE MISTAKEN PRINCIPLES ON WHICH WRITERS ON THIS SUBJECT HAVE HITHERTO PROCEEDED; THE MISCHIEFS AND ABSURDITIES THAT FOLLOWED THEM; AND THE REMEDIES WHICH THE PRINCIPLES HERE LAID DOWN ARE ABLE TO SUPPLY.

I HAVE now, at length, and I hope to the reader's satisfaction, performed what I undertook; which was, *to demonstrate the equity and necessity of an established religion and a test-law on the principles of the law of nature and nations.* It only remains to shew, (as I promised in the beginning of this discourse) what FALSE PRINCIPLE it was, which, embraced in common, hath misled both parties; and brought one to conclude, that an *established religion* was of divine right; and the other, that a *test-law* was a violation of all human ones. For, as the excellent *Hooker* says, "a common received error is never utterly over-"throwne, till such time as we go from signes to "causes, and shew some manifest root or fountaine "thereof common unto all, whereby it may clearely "appeare how it hath come to passe that so many "have beene overseene." By this, likewise, we shall add new strength to our conclusions (as it will afford us a view of the defects in the other scheme of defence), and remove any remaining doubts that may have arisen from the authority of great names against us.

When a love for truth, my sole motive to this inquiry, had engaged me in an examination of the nature and

and end of *an established religion and a test-law*; and that I had laid down unquestioned principles, and drawn conclusions from them, as I thought, demonstrative; I was yet not a little staggered to find that some great names (to whom, as writers, we owe the highest regard) had, from the very same principles, deduced the very contrary conclusions. This then was to be accounted for, if I expected my argument should have a fair hearing. And, on reflection, I supposed that the error, which seduced them, might be this; the defenders of an *established religion* have all along gone on to support it on the motives of TRUTH, and not of UTILITY. That is, that religion was to be *established* and protected, AS IT WAS THE TRUE RELIGION: not for the sake of its CIVIL UTILITY; which is the great PRINCIPLE OF THIS THEORY. For that notion which, *Grotius* tells us, some churches on the Continent had of civil society, seems to have been entertained by the defenders of our establishment.—"Alii "diversas [religiones] minus tolerant; quippe non "in hoc *tantum* ordinatas a Deo civitates ac magis- "tratus dictantes, ut a *corporibus & possessionibus* in- "juriæ abessent, *sed ut, quo more ipse jussisset, eo in* "*commune coleretur*; cujus officii negligentes multos "pœnam *aliorum impietati* debitam in se accersisse."

Now, unluckily for truth, the best writers on the other side took this mistaken principle for granted; imagining there could be no other possible cause assigned for *established* religion: and, at the same time, finding *this* full, both of absurdity and mischief, too hastily concluded an *established religion* secured by a *test-law* to be a violation of the rights of nature and nations.

But let us take a short view of the absurdities and mischiefs that arise from the hypothesis which builds

an

an established religion and a test-law on a principle of *religious truth*, and not of *civil utility*.

If religion is to be established and protected by a test-law, only because it is the *true religion*, then opinions are encouraged as opinions; that is, as *truths*, not as *utilities*; and discouraged as opinions; that is, as *errors*, not as *mischiefs*. See then what follows, both with regard to an *establishment* and a *test*.

I. An *Establishment* is unjust, 1. Because the civil magistrate as such hath no right to determine, which is the true religion; this power not being given him (as we have shewn) on man's entering into society. Nor could it be given him; because one man cannot impower another to determine for him in matters of religion. Therefore he not being judge, and there being no other to be found with authority to arbitrate between him and the several schemes of religion, he hath no right to establish his own. Again, it is *unjust*, because, were the magistrate a competent judge of what was *true religion*, he would have yet no right to reward its followers, or discourage its opposers; because, as hath been shewn, matters of opinion belong not to his jurisdiction. He being, as St. *Peter* * tells us, "sent by God for the *punishment* of EVIL-DOERS, "and for the *praise* of them that DO WELL." 2. An *establishment* is absurd: it being impossible that the end of it should be attained. This end is the protection and support of *true religion*. But the civil magistrate, who is to establish it, assuming to himself the sole authority of judging which is so, must necessarily conclude in favour of his own; so that the *established religion*, all the world over, will be the magistrate's: that is, for one place where the *true*

* 1 Ep. ii. 14.

religion

religion is established, the *false* will be established in a thousand. And whether this be for the interest of *true religion*, let the maintainers of this hypothesis consider. I will only observe, that, as the civil magistrate had neither by nature, nor by the law of God, this jurisdiction; so it is impossible he should have it; because the very exercise of it would destroy the end for which it is supposed to be given.

II. I MIGHT shew, in the next place, that this hypothesis takes away all the *reason* on which the mutual grants and privileges of church and state, consequent on an alliance, are founded: which must all, therefore, cease: such, for instance, as *the clergy's right to a public maintenance:* which, now, being for the support of opinions, would be contrary to the fundamental laws of society, by making men contribute to the maintenance of opinions which they reject and think false. And so of the rest. But why do we talk of mutual grants and privileges, or stated conditions of alliance; When,

III. This scheme of an establishment, not making the alliance between church and state on a free convention, but appointing the state a kind of executor of the church's decrees, the *alliance* can have no stated laws or conditions of union? On the contrary, the privileges of each society must be perpetually fluctuating and various; having no other grounds than the unsettled notions men chance to embrace concerning the extent of that support and protection which the state is obliged to bestow; and notions directed by no rule will never be adapted to the public good. Thus all fixed and precise ideas of an *establishment* being confounded, ill-designing men have a handle

handle to make it what they please. Which, in fact, we find they have done, to the infinite damage of society, in most places, where this notion of its original hath prevailed. So that, instead of this peaceable union so beneficent to civil society (the fruits of a *free convention*, under the stated and well-known conditions, mutually given and received), we see nothing but violent and continued struggles between the TWO SOCIETIES, for power and independency.

IV. A *test-law*, on this scheme, will be absolutely UNJUST. For now opinions being restrained as *errors*, not as *mischiefs*—*restraint* converts into *punishment*. For the design of a test is now, not to keep men of other religions out of the *civil administration*, but to bring them in to the *established church*. And its discouragements are those WHOLESOME SEVERITIES so warmly recommended, to reduce men from the *false* to the *true* religion. Where if the first dose do not succeed, it must be repeated and enlarged till it does. This is *punishment*, properly so called; and punishment, for what is no act of the will, we have shewn to be unjust. But were opinions, as such, liable to punishment, the civil magistrate could not inflict it; because his jurisdiction extends only to the care of bodies. Further, this is depriving men of their civil rights for matters of opinion, as such; but this we have shewn to be against the law of nature. On all these accounts, a test-law would be unjust.

V. Again, a *test law* on this scheme would be most *mischievous*, as directly tending to the destruction of religious liberty. For the end being to reduce men from the false to the true religion, the severities, as we say, must be increased till they have strength to

operate

operate effectually. And there is no stopping short, without exposing the scheme to the greatest absurdities. Therefore, the more ingenuous defenders of a *test*, on this scheme, are those who regard a toleration, not as a right of nature due to mankind, but as a concession which the necessities of the times extorted. For it is certain that *toleration* and *such a test* can no more stand together on common principles, than liberty and persecution.

This is but a very short hint of the sad consequences which attend an established religion and a test-law on the common hypothesis; but enough to evince the following conclusions:

I. First, that those great defenders of *civil* and *religious* liberties, whose projects are here opposed, must needs think hardly of an established religion raised on that hypothesis; which so directly tends to the destruction of both.

II. Secondly, that the arguments employed in their various writings, against such establishments, do not at all affect or reach an established religion and a test-law founded on this theory. For that,

III. Thirdly, on comparison, it appears, that *this* removes and keeps clear of all those monstrous mischiefs and absurdities with which the other scheme abounds: as shewing the magistrate's act in the *alliance* to be reasonable, just, and necessary: as stating and fixing the mutual *conditions* of the alliance with the utmost precision and exactness: as proving the equity and necessity of a *test-law*; and securing religious liberty by a free *toleration*. And, to shew that nothing of advantage is wanting to make this scheme

scheme preferred to the common one, it may be observed, in the last place, that an establishment, made only on the motives of CIVIL UTILITY, secures that very end, which the other pretends solely to aim at in establishing a church; and which yet, by pursuing in a visionary manner, it never attains: I mean, *the advancement of truth.* For if public utility and truth do coincide, then to provide for that utility is, at the same time, providing for truth, its inseparable associate. On the whole then we see that, in this case, to aim at *truth* is losing as well *that*, as utility; but to aim at *utility* is gaining both together.

I will conclude, in requesting my reader to have this always in mind, THAT THE TRUE END FOR WHICH RELIGION IS ESTABLISHED IS, NOT TO PROVIDE FOR THE TRUE FAITH, BUT FOR CIVIL UTILITY, as the key to open to him the whole mystery of this controversy; and the clew to lead him safe through all the intricacies, and perplexities, in which it has been involved.

The settling this matter on true foundations seems to be the only thing wanting to perfect the felicity of the *British* constitution. For while *literary, civil* and *religious* liberty, by occasionally undergoing a free scrutiny, have at length become generally understood; *this last remaining question*, of so much importance, concerning an *established religion*, hath been so little examined to the bottom, or the true principles of it searched into, that the one party defended it on *such* as directly tend to overthrow every thing already settled in favour of religious, and even civil and literary liberty: and the *other* opposed it on *such* as must make all that liberty, they themselves had been long contending for, and had at length obtained, degenerate into the worst licentiousness. Now whether

whether we have contributed any thing to facilitate the removal of this last obstruction to a state of sober and perfect liberty, is submitted to the judgment of the Public.

## CHAP. V.

### THE CONCLUSION, IN WHICH THE REMAINING OBJECTIONS OF BOTH PARTIES ARE CONSIDERED.

THE wild *Indians*, amidst their uncultivated wastes, see the beauty and use of every thing around them; and are not such fools as to complain for want of better accommodations than what they find provided to their hands. Yet as important as this truth is to them, they are little solicitous to enquire from whence all this order and harmony arises: they have received it from their ancestors, that the earth was supported on the back of a huge tortoise; and they do not take it well to have their tortoise disturbed or laughed at. The friends of our happy establishment have, many of them, a little of this Indian taste.—In their fear of *shaking foundations*, they are unwilling that the weight of the constitution should be removed from the tortoise of old opinion, to rest upon a *theory which* they think *does not exactly tally with fact, as few theories do.*

This may be thought a notable objection. But on what mistaken principle it stands, I shall now endeavour to shew. The word THEORY has been appropriated (as it were) to the explanation of a *natural system.* Now as such theories are good only in proportion to their agreement with *fact*; and as nature

nature so much withdraws herself from our inquiry; it is no wonder that it should have grown into an observation, *that few theories agree with fact*; and that this should be esteemed, what it really is, an objection to theories of this kind.

But our theory is an explanation of an *artificial*, not a *natural* system: in which measures very different from the latter are to be followed. For truth being the end of all kinds of theories, a right theory of *nature* is to be obtained only by pursuing fact; for God is the author of that system: but in a theory of *politics*, which is an *artificial* system, to follow fact is no certain way to truth, because man is the author of that system. Abstract ideas, and their general relations, are the guides to lead us into truth; and *fact* hath, with good reason, but a subsidiary use. As therefore the method to be pursued is different, so should the judgment be, which is passed upon it: the goodness of this theory being estimated, not according to its agreement with *fact*, but *right reason*. In the former case, the theory should be regulated by the fact: in the latter, the fact by the theory.

But still, *fact*, as we say, hath even here its subsidiary use. For as this theory must be founded on the principles of *right reason* to render it *just*; so, to satisfy us that it is *real*, that it is *practicable*, and no fanciful Utopia, it must be supported by *fact*: that is, it must be shewn that the policy, explained and justified in the theory, hath been practised to the common benefit of all. This is the use, and the only use, of consulting fact in these kinds of theories. And this, I presume, will be enough to recommend the theory of this ALLIANCE: which was written with no other view, than to furnish every lover of his coun-

try with reasonable principles, to oppose to the destructive fancies of the enemies of our happy establishment. Not to reform the fundamental constitutions of the state; but to shew they needed no reforming: an attempt, I should think, neither irrational, nor unseasonable.

An example, used before, will illustrate what we have been now saying. The *theory* of civil society, founded on the *original compact*, when it was first urged against the advocates for arbitrary government, had the fortune to fall into ill hands, the enemies of their country; who inforced it, not to defend the liberties we enjoyed, but to alter the nature of the constitution: the consequence was, that the authors being justly obnoxious, the principles were suspected, and then rejected. Afterwards they fell into more temperate hands; and being then employed to justify the subjects' rights under our limited monarchy, they were in a little time generally received; and men were brought to found their liberties on those principles; which liberties, till then, they chose to claim on the precarious grants of ancient monarchs, or the illiberal tenure of more ancient custom.

As to our adversaries, if they thought that the few cant terms of *Natural Rights*, *Civil Liberty*, *Priestcraft*, and *Persecution*, curiously varied by a jargon of sophistical logic, would be sufficient to undo what the wisdom of all ages and people has concurred to *establish*, many of them have lived to see themselves mistaken.

But if reason be what they require, and that they think they have a right to expect a reason for every thing, we have here endeavoured to satisfy them. If they like, as it is probable they will, their own reasons better,

better, it will then come to be a dispute about taste. I have given them corn. They chuse to stick by their acorn-husks. Much good may do them.

Nothing remains but to remove an argument *ad invidiam*, the only logic hitherto employed against this *theory*, and which would persuade the reader that it MAKES RELIGION A TOOL OF POLITICS. If by this they mean, that I believe there is a *political use of religion*, whereby it may be made to advance the good of civil society; and that therefore I have endeavoured to make this use of it; they do me no wrong. I not only believe so, but I have shewn * that we have not a more illustrious instance of the wisdom and goodness of God, than in his thus closely uniting our present and our future happiness. I believe what the BEST GOOD MAN of our order was not ashamed to own before me. "A politique use of religion (says he †) "there is. Men fearing God are thereby a great "deal more effectually than by positive laws restrained "from doing evil, inasmuch as those laws have no "further power than over our outward actions only, "whereas unto mens inward cogitations, unto the "privie intents and motions of their hearts, religion "serveth for a bridle. What more savage, wilde, "and cruell, than man, if he see himselfe able, "either by fraude to over-reach, or by power to "overbeare, the laws whereunto he should be sub-"ject? Wherefore in so great boldness to offend, it "behoveth that the world should be held in awe, not "by a vaine surmise, but a true apprehension of "somewhat, which no man may thinke himselfe able "to withstand. THIS IS THE POLITIQUE USE OF "RELIGION." Thus the admirable Hooker, where

* See The Divine Legation of Moses, Books I. II. III.

† Eccl. Pol. B. V. Sect. 2.

he takes notice how certain atheists of his time, by observing this use of religion, were fortified in their folly, in thinking it was invented by statesmen to keep men in awe. An idle vision, which I have so thoroughly confuted in another place *, that, I persuade myself, it shall, for the future, be only thought fit to go in rank with the tales of nurses, and the dreams of Freethinkers.

But if they mean, that I have endeavoured *to make religion a convenient engine to ambitious and intriguing politicians to work the clergy, as the tools of power, in a separate interest from the community*, this is a very gross calumny. I have expressly declared, that where I speak of religion's serving the state, I always mean, by the state, a *legitimate* government, or civil policy founded on the natural rights and liberties of mankind. And, so far is this plan of *alliance* from contributing to those mischiefs, that it effectually prevents them: and, what is more, is the only scheme of an ESTABLISHMENT which can prevent them.

To conclude all, We live in an age when the principles of public liberty are well understood: and, as corrupt as the age is, we must needs imagine, there are many real lovers of their country. But then a certain licentiousness (which is the spirit of the times) is as fatally apt to delude honest men in their ideas of public good, as to infect corrupt men in their pursuit of private satisfactions. Now, as such are always apt to embrace with warmth any project which hath the face of advancing public interests, I do not wonder they should be drawn in, to think favourably of an attempt which professes only to vindicate the COMMON RIGHTS OF SUBJECTS; or that they should be

* Divine Legation of Moses, B. III. Sect. 6.

inclined

inclined to judge hardly of a writer, who frankly opposes those pretensions. " Because" (to use the words of the great author last quoted*) " such as " openly reprove supposed disorders of state, are " taken for principal friends to the common benefite " of all; and for men that carry singular freedome " of mind. Under this fair and plausible colour, " whatsoever they utter passeth for good and currant. " That which wanteth in the waight of their speach, " is supplied by the aptness of mens minds to accept " and believe it. Whereas on the other side, if we " maintaine things that are established, we have to " strive with a number of heavy prejudices, deeply " rooted in the hearts of men, who think that herein " we serve the time, and speak in favour of the pre- " sent state, because thereby WE EITHER HOLD OR " SEEK PREFERMENT."

* Hooker's Eccl. Pol. Lib. I. Sect. 1.

## NOTES TO BOOK III.

### P. 243. [A].

NO man ever carried *human liberty* to the ridiculous excess, in which we find it in the writings of J. J. Rousseau, the Celebrated Citizen of Geneva. Yet, with the appearance of the like extravagant caprice in the other extreme, he deprives men of that most precious branch of their liberty, the worshipping of God according to their conscience. " As to Re-
" ligions once *established*, or *tolerated* in a state, I
" think it (says he, in a letter to the *archbishop* of
" Paris) unjust and barbarous to destroy them by
" violence; and that the sovereign hurts himself in
" maltreating the followers of them. There is a great
" difference between men's embracing a new religion,
" and living and continuing in that in which they
" were born. The *first only are punishable.* The
" civil power should neither suffer diversities of opi-
" nion to be new planted, neither should it proscribe
" those which have already taken root. *For a son*
" *is never in the wrong for following the religion of*
" *his father:* and the *public peace requires* that there
" should be no persecution."—Lettre à M. De Beaumont, l'Archeveque de Paris, p. 86. I have given the original in another place.

This one might expect from a man of paradox: but, to find so sage an advocate for liberty as M. de Montesquieu speaking in the same strain, appears at first sight, very unaccountable.—" See then (says
" he) the fundamental principle of civil laws with
" regard

" regard to religion. When the civil power is the " master, whether it will receive a *new religion* into " the state, or whether it will not, It should not re- " ceive it. When it hath already gotten footing in " the state, it should be *tolerated.*"—Voici donc le principe fondamental des loix politiques en fait de religion. Quand on est Maître de recevoir dans un état une nouvelle religion, ou de ne pas recevoir, il ne faut pas l'y établir; quand elle y est établie, il faut la tolérer.—De l'Esprit des Loix, l. 25. c. x.

This decision of these two philosophic legists appears to be as contradictory to their own general principle, as it is absurd and unjust in itself. The only way I know, of accounting for it, is to suppose (and I believe I do small injury to truth in supposing it) that both of them consider RELIGION as a mere ENGINE OF STATE; an useful one indeed, when rightly applied; but very mischievous when not conducted by as able politicians as themselves. Suppose this; and then, as discordant as their decision is to their *civil principles* of liberty, it is very consonant to their *religious principles* of an *engine of state.* For if religion be only thus to be considered, any one mode of it will serve the turn: more than one may be too much, and occasion civil disorders: therefore more than one ought not to be admitted. But if several have already taken root, they are to be *tolerated* and left in peace, for the very same reason: because the attempt to eradicate them might be attended with the same civil mischief which a new introduction of them would produce.

But neither of these celebrated writers seemed to consider, that though THEY regarded *religion as a mere engine of state*, yet that RELIGIONISTS thought otherwise, and esteemed it of divine original; and that con-

sequently, it was matter of CONSCIENCE to *Believers* to worship God according to that mode which they judged most acceptable to him. Now to restrain such in the exercise of what they deem their chief duty, is one of the greatest violations of the NATURAL RIGHTS of mankind: Yet these two ingenious men openly profess, nay boast, that the defence and preservation of THESE RIGHTS was the great and principal end of their learned labours.

P. 251. [B]. The equal conduct of the best and greatest of our monarchs, in his very different stations of Prince of Orange, and King of England, will do great credit to this reasoning. When king James, a *papist*, demanded of his son-in-law, with whom he was then on good terms, his approbation of a TOLERATION and ABOLITION OF THE TEST: The Statholder readily concurred with the scheme of a *toleration*, but utterly condemned an *abolition of the test*. When afterwards, he became king of a free people, the *Protestant* Dissenters, likewise, in their turn demanded both: His conduct was uniformly the same: He gave them a *toleration*, but was advised not to give his consent to the abolition of the *test*.

End of NOTES to Book III.

# APPENDIX

TO

THE FIRST EDITION

OF

*THE ALLIANCE;*

1736*.

THE substance of the preceding Discourse being no other than a single Chapter of a Treatise which I have now by me, and which, therefore, I had oft occasion to refer to as I went along, I thought it not amiss, for these reasons (not to mention others), to give the Reader some short account of a work that may, I hope, on its appearance, engage his further attention. It is intitled, *The Divine Legation of Moses Demonstrated (on the Principles of a Religious Theist), from the Omission of the Doctrine of a Future State in the Jewish Dispensation.* For having chalked out a plan for a defence of revealed religion against Deists, Jews, and Mahometans, which we are desirous of raising as a lasting monument to the glory of the Christian name, we were not reduced to that poverty of invention, or ignorance in design, to frame it of old or already-formed materials. Such second-hand labours are only worthy the adversaries of our holy faith; whose cause relying on the strength of half a dozen plausible sophisms, their business is to cook them up in different disguises, just as the palate

* See the Discourse prefixed to this Edition of the Author's Works, Vol. I. p. 16.

of

of the times, or the fantastic appetite of their followers, give them opportunity or invitation. But Truth, which is eternal, and whose relations are infinite, affords unexhausted matter for defence and illustration. The views in which she may be placed are numberless; and attentive contemplation flashes conviction on every view.

This, if heaven give me life and health, I hope to execute. In the mean time, this *Defence of Moses* was composed as a specimen of what can be performed, in the new road I purpose to take, for a complete defence of Revelation.

1. Why I chose to make the *Defence of Moses* the subject of my specimen, was, Because we have of late seen several Writers, who profess to believe the Christian Religion, treat Moses and his dispensation so cavalierly that one would suspect they thought the abandoning him could have no consequences destructive of Christianity. And those who profess to think more soberly, are generally gone into an opinion, that the truth of the Jewish religion is impossible to be proved but upon the foundation of the Christian. An opinion, that had been long peculiar to the Socinians: Who go so far as to maintain *, *That the knowledge of the Old Testament is not absolutely necessary for Christians.*—As to the first sort of people, if they really imagine Christianity hath no dependence on Judaism, I have nothing further to say to them here. But if, as is most reasonable to think, they only affect this air of indifference when pressed with difficulties too weighty to remove, this Demonstration may not come unseasonably to their relief. As for the other, I shall, I am persuaded, merit their thanks,

* Cuper advers. Trad. Theologico-polit. L. i.

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prove the Christian by the Jewish;
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edium, namely, *the omission*
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its divine original, was, 1. Because
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idelity, that this very circumstance of
, which those men esteem such an imperfec-
s makes the dispensation unworthy the author
whom we ascribe it, is, in truth, a demonstrative
proof of the divinity of its original. Whereby it will
be found, that several passages of Scripture, which
hey charge with obscurity, injustice, and contradic-
ion, are, indeed, full of light, equity, and concord.
2. Because this medium affords us an *internal argu-*
*ment for revelation.* Which a late able writer denies
can be found for its support. *Strictly speaking*, says
he, *there can be no internal evidence of a revelation**.
Now this being a sort of evidence on which my pro-
posed *defence of revelation* will be chiefly built; and
t having been hitherto little cultivated, and at length,
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* Dr. Conybeare's Defense of Revealed Religion, second edit. 8vo. p. 431.

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* Cuper advers. Trad. Theologico-polit. L. i.

if

if I succeed in freeing their reasonings from a vicious circle; that first, prove the Christian by the Jewish; and then, the Jewish by the Christian Religion.

2. Why I chose this medium, namely, *the omission of a future state in the Jewish Dispensation* (before several others of equal strength, which I had in my choice), to prove its divine original, was, 1. Because I should be, thereby, enabled to shew, to the confusion of infidelity, that this very circumstance of omission, which those men esteem such an imperfection as makes the dispensation unworthy the author to whom we ascribe it, is, in truth, a demonstrative proof of the divinity of its original. Whereby it will be found, that several passages of Scripture, which they charge with obscurity, injustice, and contradiction, are, indeed, full of light, equity, and concord. 2. Because this medium affords us an *internal argument for revelation.* Which a late able writer denies can be found for its support. *Strictly speaking*, says he, *there can be no internal evidence of a revelation**. Now this being a sort of evidence on which my proposed *defence of revelation* will be chiefly built; and it having been hitherto little cultivated, and at length, as we see, its very existence denied, I will beg leave to say a word or two concerning it.

The writers in defence of revealed religion distinguish their arguments under two sorts. The first they call the *internal*, and the other the *external* evidence. Of these, the first is, in its nature, more simple and noble, and even capable of demonstration. While the other, made up of very dissimilar materials, and borrowing aid from without, must needs, on these ac-

* Dr. Conybeare's Defense of Revealed Religion, second edit. 8vo. p. 431.

counts, have some parts of unequal strength with the rest; and consequently lie open to the attacks of a willing adversary. Besides, the *internal* evidence is, by its nature, perpetuated, and so fitted for all times and periods: while the *external*, by length of time, weakens and decays. For the nature and genius of the religion defended affording the proofs of the first kind, these materials of defence are inseparable from its existence; and so always at hand, and the same. But time may, and doth efface memorials independent of that existence, out of which the external evidence is composed. Which evidence must therefore become more and more imperfect; without being affected by that whimsical calculation to which a certain Scotsman* would subject it. Nay so necessary is the *internal* evidence, that even the very best of the external kind cannot support itself without it. As may be seen from hence, that when the miracles, performed by the founders of our holy faith, are, from human testimony, irresistibly established, the consequence, that therefore they come from God, cannot be deduced till the nature of that doctrine is examined, for whose establishment they were performed. But was there no other benefit in cultivating the internal evidence, yet the gaining, by it, a more perfect knowledge of revealed religion would fully recompence the pains. And this is best acquired in that pursuit.

Notwithstanding these superior advantages, it has so happened, that the *internal evidence* hath been hitherto used as an introduction only, to the *external:* and while, by this latter, men have proved our religion actually divine, they have gone no further with the former, than to shew it worthy, indeed, of such

* Craig, Theologiæ Christ. Principia Mathematica. Lond. 1699, 4to.

original.

original. But from this observation, a late writer, as I have said, hath drawn a quite contrary conclusion. I, from the small progress hitherto made in it, exhort to its better cultivation; he, from the same fact, concludes, that *strictly speaking there can be no internal evidence* at all *of a revelation.* He supposes this small advance to be owing to a defect in the nature of the proof; I, to the negligence of its cultivators. Which of us is in the right, a few pages will, I hope, discover.

What may have occasioned this neglect, in my view of it, is not so easy to find out. Whether it be that writers have imagined that, in general, the labours and difficulties attending the effectual prosecution of the *internal method,* are not so easily surmounted as those which the writer in the external is engaged in. While they suppose, that this latter, to be master of his subject, needs only the common requisites of church history, diligence and judgment. But that the reasoner, on the *internal proof,* must, besides these, have a thorough knowledge of human nature, civil policy, the universal history of mankind, an exact idea of the Mosaic and Christian dispensations, cleared from the froth and grounds of school subtilties, and church systems: and, above all, should be blessed with a certain sagacity to investigate the relations of human actions through all the combinations of natural, civil, and moral complexities. What may suggest this opinion may be the reflection, that in the *external evidence* each circumstance of fact, that makes for the truth of revealed religion, is seen to do so as soon as known; so that the chief labour, here, is to search and pick out such facts; and to place them in their proper light and situation: but, that in prosecuting the *internal evidence,* the case is widely different.

different. A circumstance in the frame and composition of this religion that, perhaps, some time or other may be discovered to be a demonstration of its divinity, shall be so far from being generally thought assisting in its proof, that it shall be esteemed, by many, a prejudice against it. As, I think, I have given a remarkable instance in the subject of the treatise I am now upon. And no wonder that a religion of divine original, constituted to serve many admirable ends of Providence, should be full of such complicated mysteries, the view of which filled the great apostle Paul with raptures. As, on the other hand, this religion being for the use of man, we need not despair, when we have attained a proper knowledge of man's nature, and the dependencies thereon, of making still growing discoveries, on the *internal evidence*, of the divinity of its original.

Now though all this may perhaps be true; and that, consequently, it would appear ridiculous arrogance in an ordinary writer, after having seen the difficulties attending this method, to hope to overcome them by the qualities above said to be required: yet no modest examiner need be discouraged. For there are, in revealed religion, besides those interior marks of truth before described, which require the most delicate operation of a great genius and master workman to bring out and polish *, others, also, no less illustrious, but more univocal marks of truth, which God hath been pleased to impress upon his dispensations; which require no great qualities, but humility and love of truth, in him who would from thence investigate the ways of God to man. The subject of this dis-

* A noble instance of this, a great writer hath given us in the fourth *dissertation* of *the Use and Intent of Prophecy*, &c, intitled, *Christ's Entry into Jerusalem*.

course

course is one of those illustrious marks; from which the discoverer claims no merit from any long, learned, or laborious search; it is honour enough for him that he is the first who brings it out to observation. If he be indeed the first. For the demonstration is so beautiful, and, at the same time, appears to be so easy and simple, that one cannot tell whether the pleasure of the discovery, or the wonder that it is now to make, be the greater.

In this treatise, I pretend to have carried the *internal evidence* much further than the proofs for revelation are usually carried. Even to the height of which it is capable, a demonstration, little short of mathematical. In which, nothing, but a mere physical possibility of the contrary, can be opposed. Only allowing me this single postulatum,

"That a skilful legislator establishing a religion, "and a civil policy, acts with certain views and for "certain ends; and not capriciously, or without pur- "pose or design."

From thence I proceed to erect my demonstration, solely, on these three very clear and simple propositions:

1. "That the inculcating the doctrine of a future "state of rewards and punishments, is necessary for "the well-being of civil society.

2. "That all mankind, especially the most learned "and wise nations of antiquity, have concurred in "believing that this doctrine was of that use to civil "society. And,

3. "That the doctrine of a future state of rewards "and punishments is not to be found in, nor did "make part of, the Mosaic dispensation."

Propositions,

Propositions so clear and evident, that one would think one might directly proceed to those mediums whereby we deduce our conclusion,

"*That therefore the law of Moses is of divine* "*original.*"

But so great is the love to paradox and system, that these, with all their clearness, have need of a very particular defence: The infidel having disputed the first, and many Christian writers thought fit to deny the last. The discourse, therefore, is divided into six books. The first is in defence of the first proposition: The second and third, in defence of the second proposition: The fourth and fifth, in defence of the third proposition: And the last is employed in deducing those mediums whereby we erect this important demonstration. I shall crave leave to give the Reader a short account, in gross, of what each book contains.

1. The first book opens with an account of the original of civil society; the natural defect in its plan; and how that defect is supplied by religion only. But it being shewn, that religion cannot subsist or support itself without the doctrine of a future state of rewards and punishments, it follows, that that doctrine is of the highest use to society. In the next place, the objections, which licentious wits have brought against the service of religion to the state, are fully answered. In particular, the arguments employed by Mr. Bayle, and interspersed in his famous work, intitled, *Pensées diverses à l'occasion de la Comete*, &c. are methodized, set in the strongest light, and confuted. In which, amongst divers other matters of importance, are settled and explained the true grounds of moral actions. The book concludes with a short, but full, detection of the

fundamental sophisms on which the execrable doctrine of the book called *The Fable of the Bees* is solely built. The writer of which adventured to go one step further than any other atheist, or apologist for atheism. Those who preceded him having only maintained, that a state might subsist without religion, because moral virtue might be had without it; this writer, that moral virtue, the fruit of religion alone, was destructive of a great and flourishing society, whose grandeur could be supported only by vice.

2. The second Book is employed in defence of the second proposition. It begins with shewing the sense all mankind had of the utility of religion to the state, by the doctrine of a future state's being universally taught in all ages and nations of mankind, the Jewish only excepted. And it is proved, by the deduction of many particulars, that the reception and preservation of that doctrine was owing to the general sense of this its utility. It proceeds to an examination of the conduct of the ancient legislators: and delivers, and explains, at large, the various arts and contrivances they employed, to support and propagate religion in general, and the doctrine of a future state of rewards and punishments in particular. The history of these arts, *from the first*, which was a pretence to inspiration, *to the last*, which was the *establishment of religion* (that hath afforded matter for the treatise to which this short account is an appendix), is here delivered. In which I pretend to have unfolded the whole mystery of ancient legislation. A subject little known or attended to. And by deducing the history of its rise, progress, and decay, from the old Egyptians to the latest Grecian sophists, we presume to have

given light and congruity to an infinite number of passages in *Greek* and *Roman* authors.

3. The third book, continuing the defence of this proposition, opens with a collection of testimonies from the ancient historians and philosophers. By which it appears there was an universal concurrence in opinion concerning the indispensable use of religion in general, and the doctrine of a future state in particular, to civil society. And in order to shew the strength of this persuasion, in the fullest light, the public teaching of the philosophers, on this point, is examined into. Where it is proved that this utility was the sole motive to all of them for propagating the doctrine of a future state of rewards and punishments. This necessarily engages us in the history of the rise, progress, and decay of the ancient Greek philosophy. In which is shewn its original, like that of legislation, from Egypt: The several revolutions it underwent in its character; constantly attendant and conformable to the several revolutions of civil power: Its gradual decay, and total absorption in the schools: Where it is shewn, that, as it sprung from the fountains of the true Egyptian wisdom, so it ended in the corrupt and spurious. In which account will be found the true original and use of the twofold method of philosophising; hitherto we presume, much mistaken: Which will help to unravel the most embarrassed questions concerning the true nature and genius of the Greek philosophy; and to reconcile an infinite number of supposed contradictions which the most eminent founders of it have fallen into. This universal consent of legislators and philosophers concerning the use of religion to the state, and their arts and endeavours to

propagate

propagate it, being largely proved and illustrated; lest it should be mistaken and perverted. This book concludes with a confutation of the atheistical pretence *that religion was the offspring of statesmen.*—The absurdity of it is exposed, and the impossibility of it demonstrated. The original, and authors of this monstrous paradox are animadverted on; particularly, the *third letter of* Toland *to* Serena *concerning the Origin of Idolatry and Reasons of Heathenism,* which is a formal defence of it, is examined and refuted.—So far in support of the second proposition.

4. The fourth book enters upon the third proposition. And, as amongst the several arguments brought to prove that the doctrine of a future state was not in the Jewish dispensation, one, and the most considerable, is taken from the nature of the Jewish policy, this book is employed in explaining the true nature of that policy. In order to which, the character of Moses, with the concessions of the Infidels concerning him, is premised. And that long debated question, whether the Jews borrowed some of their customs, and the Greeks all their ancient learning and religion from the Egyptians; or whether, on the other hand, both Greeks and Egyptians received all they had of value in these matters from the Jews, is examined to the bottom, on such principles as may, possibly, enable us to determine it with certainty. The way being thus cleared, the true Jewish policy is then attempted to be delivered and explained. The consequence of which policy is shewn to be, the dispensation of an extraordinary Providence promised and believed. The book goes on to examine how long this policy lasted; and whether it was ever changed while the Jews continued a people, under their own laws: and concludes with a very mo-

mentous attempt, namely, to demonstrate, from the true nature of this policy, as here delivered, the agreeableness of every thing which Scripture tells us, God commanded; *did* to others; or represented of himself; the agreeableness, I say, of all this to truth, and the rights of nature and nations. In which will be obviated every thing of moment the Deists urge; particularly the late author of *Christianity as old as the Creation*, to prove those things contrary to reason, truth, and justice. Such as are the law for punishing opinions; which Mr. Bayle, after many endeavours to justify, gives up, as impossible to be defended on the principles of the tolerants; the extirpation of the seven nations; the destruction of the people for having been numbered by David; the representation of the Godhead with human passions, and the like.

5. The fifth book continues to prosecute the subject of the third proposition. Many other arguments are now produced, to prove that the doctrine of a future state neither was, nor could be, part of the Mosaic dispensation. Then the arguments of those who are of another opinion are considered; where it is shewn, that they are all built on false principles, which in this, and in the foregoing book, have been detected and confuted. And, in the last place, the true history of the rise and progress of the doctrine of a future state amongst the Jewish people is delivered. It is first told, from what quarter the slow dawnings of it first appeared. In doing which, there was occasion to settle the chronology of several books of the Old Testament: particularly the book of *Job*, which we hope is exactly done from infallible internal characters. In this part of the history of the doctrine, we have been invited to give, what our main principle enables

us to do, some good account of the contradictory methods which God in different places of Holy Writ declares to use in dealing with sinners: and to shew how reconcileable those different methods are to truth, to equity, and to one another. A circumstance that is now become the offence of every smatterer in infidelity. The book proceeds to an account of the progress and establishment of the doctrine of a future state amongst the Jews. And, as, we find, it was thoroughly digested and established, among them, at Christ's advent; the time, it first became a popular doctrine, is endeavoured to be discovered; which directs us to the occasion of its propagation: as the mode of it doth to the authors from whence they received it. All which particulars, it is shewn, do in a remarkable manner contribute to the induction and illustration of our main conclusion. So far in support of the third and last proposition.

6. The sixth and concluding book is taken up in searching out, and illustrating, by the foregoing books, all those mediums whereby we establish our great conclusion, *That therefore the law of Moses is of divine original.* The sum of the proof is in a word to this effect. The first book proved, that religion, which teaches an overruling Providence, the rewarder of good men, and the punisher of ill, is necessary for society, to help out the magistrate in the execution of his office, by restraining irregularities he could never reach, and by giving a sanction to his decrees. But that the apparent irregularities in the dispensation of things, here below, would destroy the belief of a Providence, and consequently all religion, were it not supported by the doctrine of a future state of rewards and punishments, where all those irregularities are set right.

This was so evident a truth, that, as is shewn in the second book, all nations concurred to cherish and support this doctrine; all the legislators established it; and all the philosophers invented reasons to give it credit. Which could be for no other end than its confessed service to society: Because, it is shewn, that several of these latter who endeavoured most to propagate it, believed it not. Amidst this universal consent, arises a little state, which, by the confession of the Deists themselves, was the best policied of any that ever ancient legislation formed; the author of which pursued his scheme by methods, and on principles, so resembling the best pagan legislators, as Minos, Solon, Lycurgus, Numa, that those Deists believe him to be of the same species and class with these; and to have just the same pretences to inspiration. But, what must call up the attention of every one, there was this very singular difference between his institution and all the other institutions of mankind; that though he, like them, taught an overruling Providence, and a religion, yet it was *without the doctrine of a future state of rewards and punishments:* as is largely proved in the fourth and fifth books. This omission makes the whole deistical scheme with regard to Moses, to the last degree inconsistent, absurd, and ridiculous. For first, according to their own representation of Moses, he was the wisest of all legislators, and therefore must needs see the service that doctrine was of to society. He had been bred up in the Egyptian schools, and, as the Deists believe, had all his knowledge in legislation and religion from thence: But it is proved in the second and third books, that this doctrine was invented (from the most early times) by the Egyptians, and invented for the sake of the state. Now the Deists say, he transferred all

that

that was good and profitable, from their institutions into his own. Why not, then, this most useful of all doctrines? Again, the Jewish people, it is confessed on all hands, had most largely imbibed the Egyptian customs; and the Deists observe, that Moses, as a wise legislator who understood human nature, accommodated his institutions to the inveteracy of such prejudices and prepossessions: But, of all opinions, this of a future state, as is shewn in the second book, is the most pleasing to the mind, gets the quickest possession of it, and most difficultly suffers a divorce: and, being at the same time most useful, it is therefore impossible a wise legislator, acting with design, such as the Deists represent Moses, could omit to inculcate it. Nor doth it avail to say, Moses did not himself believe this doctrine; for we have shewn, in the second and third books, that many of the wisest ancients (legislators and philosophers) believed it not, yet sedulously inculcated it for its confessed utility to society. So that Moses had no reasons for not teaching, but, the most momentous and forcible, to teach it. As, 1, its most apparent use. 2. His prepossession in favour of it; being brought up in a school of legislation in which this doctrine was the most indispensable and essential part. 3. The prepossession of his people in favour of it. And, 4. The particular necessity the Jewish state had of this doctrine, above all other states, if it was of mere human institution, as the Deists imagine: which necessity is largely shewn in this book. Thus supposing Moses to be a mere human legislator, his conduct, in this matter, must be owned to be to the last degree absurd, capricious, and irrational. But now, take the account as Scripture gives it us, that he was a man chose by God to give laws to his people, and all these difficulties vanish and disappear:

and the great legislator shines out again in one uniform course of splendour. For then, an extraordinary dispensation of Providence, exactly rewarding and punishing (which we shew, in the fourth book, to be a necessary consequence of the Jewish policy) made the doctrine of a future state needless, to all the ends of civil society; and every thing, as we have shewn, tended, in the Mosaic dispensation, to those ends. For the doctrine being propagated by statesmen, only as a succedaneum to an unequal providence, when that inequality was rectified, there was no further occasion for it. The consequence is, that that extraordinary providence over the Jewish people, as recorded in Scripture, was *real:* And if so, then MOSES, TRULY THE MESSENGER OF GOD. If it should yet be objected that the *preaching up* this extraordinary Providence to popular belief, without the *reality of its existence*, was enough to supply the want of the doctrine of a future state; it is here shewn, that this pretence of an extraordinary Providence was made use of by all the ancient legislators: who, yet, found it totally insufficient, for the ends of society, without this doctrine: which, therefore, was every where sedulously inculcated. If lastly it should be objected (which is the only remaining objection can be made) that Moses might really believe an *extraordinary Providence* when there was none, and on the strength of that belief might omit the doctrine of a future state, as useless; this case is shewn to be impossible. For first, this supposes him to be very enthusiastical, which the Deists are far from taking him to be; and which we have clearly proved he was not. 2. It supposes that a space of above forty years in which he conducted his people, and the long experience of that time, could not cure him of his enthusiasm, with regard to so clear a point, that

that must be perpetually thrusting itself upon his observation. He must in that case have been stark-mad: which is so monstrous a fancy, that all mankind will be ashamed of it. The book goes on to shew, that if Moses had a divine mission, and consequently what he had delivered of the extraordinary Providence of God was true, there was not only no need of the doctrine of a future state; but that a great many wise ends, becoming infinite wisdom, were served by omitting it: nay that it could not, for many important reasons, have been taught. To support this, a view is given of the universal dispensation of God to man as a religious agent: and the coincidency and dependence of his several revelations to him are explained and illustrated: In which, the true nature of his last and perfect revelation by the ministry of his Son is we presume more rationally explained. From whence will appear the wonderful harmony of the whole; and *the depth and riches of the wisdom and goodness of God* made manifest, in a series of observations, that, we hope, have in them as much solidity as novelty. And with this concludes the last book.

This is a very slight and imperfect general view of a work, where a vast variety of circumstances, not hinted at in this short account, do, we presume, so strongly contribute to the establishment of our conclusion, that nothing, as we said, remains against it but a mere physical possibility of the contrary. And, *this*, on the principles of the Deists themselves. And from those very marks of resemblance they pretend to have discovered between Moses and the ancient pagan legislators; and from many others, which, in the course of this work, we have brought out to observation. So well founded was the triumphal confidence of this

great missionary of God, who, as if he had foreknown this objection that scoffers of the latter age were to make to the divinity of his character, dared rest the truth of his pretensions on an appeal to those legislators themselves, and their Pagan followers; where, in his last moments, he thus exultingly cries out, *THEIR ROCK IS NOT AS OUR ROCK, OUR ENEMIES THEMSELVES BEING JUDGES.

* Deut. xxxii. 31.

# POSTSCRIPT

TO

# THE FOURTH EDITION;

## 1766.

LORD BOLINGBROKE, in his large posthumous work (on what motives, those volumes sufficiently declare) hath laboured at a full and formal confutation of the preceding discourse; after having done the same honour to another of the author's works, *The Divine Legation of Moses Demonstrated.* But the pains he had taken, and the opposition he had found in the *argument* of that book, had, by the time he came upon this second adventure, so ruffled his temper and discomposed his polite manners, that he now breaks out into much opprobrious language, not only against the system, but the person of the writer. To understand the cause of his lordship's resentment, so far only as it arose from the nature of my discourse, it may not be improper to say a word or two further concerning the occasion of my writing, and the principles on which the discourse is composed.

After the many violent convulsions our country had suffered since the REFORMATION by the rage of the religious parties (in which, at one time, liberty of conscience was oppressed; and at another, the established church overturned and desolated) it pleased Divine

Divine Providence to settle our religious rites on such fundamental principles of justice and equity, and to secure the civil peace on such maxims of wisdom and true policy, as most effectually guarded both against the return of their respective violations: and the means made use of were the giving, on proper terms of security to the national religion, a free toleration to those who dissented from the established worship. This seemed to be going as far towards perfection in religious communion as the long distracted state of the Christian world would suffer us to indulge our hopes.

But men had not been long in possession of this blessing before they grew weary of it, and set on foot many inventions, to throw us back into our old disorders. For it is to be observed, with sorrow, that this reform of the English constitution happened not to be the good work of the CHURCH, begun in the conviction of TRUTH, and carried on upon the principles of charity: but was rather owing to the vigilance of the STATE; at one time, vainly perhaps, anxious for the established religion*, at another, wisely provident for the support of civil liberty†. So that when succeeding dissensions in church and state had made this newly reformed constitution the subject of enquiry, the parties who managed the debate being those who before had both persecuted and suffered in their turns, the principles and tempers they brought with them to the discussion of the question were not such perhaps as were best fitted either to regulate their judgments, or to moderate their partialities. *One* side seemed to regard the TOLERATION as an evil in itself, and only a temporary expedient to prevent a worse; while their conduct shewed, they lay

* Ch. II. † Will. III.

at

at watch for the first occasion to break in upon it. This was enough to mislead the *other*, and dispose it to consider the TEST-LAW, which covered and secured the established religion, as no better than a new species of persecution: and having now no real injury to complain of, they began to take umbrage at this shadow of a grievance; "To have divine worship "really free, they said, no religious profession should "be attended with civil incapacities; a TEST had "made that distinction amongst God's worshippers; "it was therefore to be set aside." But every man saw (and perhaps the enemies of the *test* were not amongst the last who saw it) that to set aside this law, which, under a general *toleration*, was the only security the *established* church had to trust to, was exposing the national worship to all the inroads of a sectarian rabble. This mischievous project, arising out of abused liberty, was at first entertained, as we may well suppose, by the tolerated churches only. Some of the more ingenuous of them adopted it out of *fear*, on the discovery of that bigotted principle in their adversaries, which considered *toleration* as only a temporary expedient. And where was the wonder if those who believed they had no security for what they had got, while such principles prevailed, should endeavour to put it out of the power of their adversaries to do them harm? Others of a more politic turn cherished it from views of ambition, and in hopes of sharing the emoluments of the established church. It was some time before any member of the Church of England joined with Dissenters in their clamours against a *test-law*, or, more properly speaking, against *their own establishment*. This monstrous coalition did not happen till a warm dispute on certain metaphysical

cal questions* (if considered in one light, too sublime to become the subject of human wit; if in another, too trifling to gain the attention of reasonable men) had started new scruples concerning church-subscription. And to get rid of this necessary ENGAGEMENT TO PEACE, and acquiescence in the established religion, these *wise* and *faithful* ministers of the national worship were amongst the foremost to discredit it, and the busiest to trample down all its fences and securities.

Bigotry, you see, was at the bottom of the first set of principles; and FANATICISM, at the top of the other. In their separate appeals to the sense of mankind, there was this remarkable difference: all ages had felt the mischiefs of religious restraint and persecution; but there was no example, either in Pagan or in Christian times, of the evils attending the WANT *of an established religion.* The fanatics therefore were perpetually urging their experience against persecution, secure in not having the argument retorted on them. But, in this imaginary advantage they deceived themselves; and the very *want* of examples was the greatest real advantage the bigots had over them: who if they had no instance of the evils attending the *want* of an establishment, to retort upon their adversaries, it was because such *want* was never known: the necessity of a national religion for the support of society being so indispensable, that men even in the wildest times, the sworn enemies of religious establishments, and *leagued* together for their destruction, were no sooner become able to effect their purpose, than they found, in beginning to new-model the state, which they had subdued by the supe-

* The Trinitarian Controversy.

riority

riority of their arms, that there was even a necessity of supporting an established church. Of this, we have a remarkable example in the INDEPENDENT *republic* *, and in the *protectorship* of OLIVER; both of which, under their several usurpations, were forced to erect PRESBYTERY, the religion they most hated, into a NATIONAL CHURCH.

To proceed; the distempers of the state still further contributed to inflame those of the church: and, on the accession of the present royal line to the throne, a long, a famous, and a regular dispute concerning the powers, bounds, and limits of the TWO SOCIETIES, was begun and carried on by two parties of churchmen. But as the several disputants had reciprocally assigned too much, and allowed too little to the two societies, and had erected their arguments on one common fallacy: the maintainers of an establishment supported a test-law on such reasoning as destroyed a toleration †; and the defenders of religious liberty argued against the justice of that security on such principles as concluded equally against a national church ‡.

In this ferment, and in this embroiled condition, the author of *The Alliance between Church and State* found the sentiments of men concerning religious liberty and establishments, when he proposed his *theory* to their consideration: a theory calculated to vindicate our present happy constitution ON A PRINCIPLE OF RIGHT, by adjusting the precise bounds of either

* In April 1649, the House (says Whitelock) came to these resolutions—*That the government to be* ESTABLISHED *in England shall be the* PRESBYTERIAN *government.*

*That a way shall be provided for* ADMISSION *of all such churches as tend to Godliness and to advance the kingdom of Jesus Christ,* TO BE FREE WITHOUT DISTURBANCES. Memor. of English Affairs, p. 393.

† Sherlock. ‡ Hoadly.

society;

society; by shewing how they come to act in conjunction; and by explaining the nature of their union: and from thence, by natural and necessary consequence, inducing, on the one hand, an ESTABLISHED RELIGION, with all its rights and privileges, secured by a TEST-LAW; and on the other, a full and free TOLERATION to all who dissented from the national worship.

He first shewed the use of religion to society, from the experience and practice of all ages: he inquired from whence the use arose, and found it to be from certain original defects in the very essence and plan of civil society. He went on to the nature of religion; and shewed how, and for what causes, it constituted a society: and then, from the natures of the *two societies*, he collected, that the object of the civil is only the *body* and its interests; and the object of the religious, only the *soul*. Hence he concluded, that both societies are sovereign, and independent; because they arise not out of one another; and because, as they are concerned in contrary provinces, they can never meet to clash; the sameness of *original*, or the sameness of *administration*, being the only causes which can bring one, of two distinct societies, into natural subjection to the other.

To apply religion therefore to the service of civil society, in the best manner it is capable of being applied, he shewed it was necessary that the two societies should UNITE: For each being sovereign and independent, there was no other way of applying the service of religion in any solid or effectual manner. But no such union could arise but from *free compact* and convention. And free convention is never likely to happen, unless each society has its mutual motives, and mutual advantages. The author therefore, from what

what he had laid down of the natures of the two societies, explained what those motives and advantages were. Whence it appeared that all the rights, privileges, and prerogatives, of the two societies, thus united, with the civil magistrate at their head, were indeed those very rights, privileges, and prerogatives, which we find established and enjoyed under our present happy constitution in church and state: the result of this was, that an ESTABLISHED CHURCH and a free TOLERATION are made perfectly to agree by the medium of a TEST-LAW. This law therefore the author, in the last place, proceeded to vindicate, on the same general principles of the law of nature and nations.

This is a true though short analysis of *the Alliance between Church and State*; with the principles on which the theory is conducted.

Let us now consider what his lordship has to object to it. I shall take him paragraph by paragraph, in his native disorder, as he lies: for when a writer is confused beyond redress, as our noble author is here where he reasons against the book of the *Alliance*, an attempt to reduce his discourse to order becomes suspicious; as the reader may chance to fancy that the *obscurity* as well as the *order* were of the answerer's making. Therefore the safest, as well as fairest way in this case is to take the writer as you find him. The obscurities in thought and expression will be then seen to be his own; and nothing can be objected to the answerer, but a few repetitions, which, in this method of answering, can never be avoided.

"THE notion (says his lordship) of a FORMAL AL-"LIANCE between church and state, as between two "independent, distinct powers, is a very groundless "and WHIMSICAL notion. But a fraudulent or silent

"compact between princes and priests became very "real, as soon as an ecclesiastical order was es- "tablished *." The latter part of this period is but too true; and the theory of the *Alliance* (misrepresented in the former part) was proposed to remedy these mischiefs. It is this theory only which I shall undertake to vindicate against his lordship's objections.

If, by *formal*, he means (and what should he mean else?) one actually executed in form; and supposes that the author of *the Alliance between Church and State*, asserted the actual execution of such a one, we may, with more justice perhaps, apply to his lordship what he says of the author, concerning DE MARCA and BOSSUET, *that he gives a character of the book called the Alliance, without knowing any thing of it.* Give me leave to quote my own words —"From all this it appears, that our plan of alliance "is no precarious arbitrary hypothesis, but a theory "founded in reason, and the invariable nature of "things. For having, from the essence, collected "the *necessity* of allying, and the *freedom* of the "compact; we have from the same *necessity* fairly "introduced it; and from its *freedom* consequentially "established every mutual term and condition of it. "So, that now if the reader should ask where this "charter or treaty of convention for the union of the "two societies, on the terms here delivered, is to be "met with? we are able to answer him. We say, "it may be found in the same archive with the fa- "mous ORIGINAL COMPACT between magistrate and "people; so much insisted on, in vindication of the "common rights of subjects. Now when a sight of "this *compact* is required of the defenders of civil "liberty, they hold it sufficient to say, that it is

* Vol. iv. p. 515, 516.

"enough

" enough for all the purposes of fact and right, that " such original compact is the only legitimate foun- " dation of civil society: that if there was NO SUCH " THING FORMALLY executed, there was, *virtually*: " that all differences between magistrate and people " ought to be regulated on the supposition of such a " compact; and all government reduced to the prin- " ciples therein laid down: for that the happiness, of " which civil society is productive, can only be at- " tained by it, when formed on those principles. " Now, something like this we say of our *Alliance be- " tween Church and State* *."

Let this serve too, for an answer to his lordship's insulting question in another place—" But where " shall we look for the conditions of that *original con- " tract which was made between the religious and civil " society*, I know not; unless we suppose them " written on the back of Constantine's grant to Syl- " vester †." Does his lordship know where to look for the ORIGINAL CONTRACT *made between the prince and people*, in any place of easier access? Or will he, when at a loss, send us to the *back of Constantine's grant to Sylvester*, for this contract likewise?

But to proceed. If by *formally*, through a perverse use of words, his lordship means only *virtually*, like the *original compact* between king and people; this indeed I do venture to say, and not only to say, but to prove likewise.

It is true, the foundation of the proof, his lordship says, stands upon a WHIMSICAL principle: So, in his opinion, did the argument of the Divine Legation of *Moses*, from the omission of a future state. Indeed his lordship seems to have been as much distressed

* Alliance, 3d Edit. See pp. 164, 165. † Vol. iv. p. 419.

by WHIMSICAL DIVINES, when he turned philosopher, as he was by WHIMSICAL POLITICIANS, while he continued a statesman *. However, the *whimsical* principle in question is this, That THE CHURCH OF CHRIST COMPOSES A SOCIETY SOVEREIGN, AND INDEPENDENT OF THE CIVIL.

This principle his lordship rejects: and it must be confessed, not, as is his wont, altogether absurdly: for he who makes religion itself a phantom, can surely have little or no idea how it should become imbodied.

"NEITHER NATURE nor REASON (says his lord-"ship) could ever lead men to imagine TWO DISTINCT "AND INDEPENDENT SOCIETIES IN THE SAME SO-"CIETY. This imagination was broached by ecclesi-"astical ambition †."

A GRAVE sentence! which to me seems equivalent to this, that *neither nature nor reason could ever lead men to imagine that* ONE *was* TWO. In this, I readily agree with him. But then the difficulty remains, how such a thing could ever come to be *broached* (as his lordship says it was) by any *imagination* not more disordered than it usually is by *ecclesiastical ambition.* SCHOOL-LEARNING, indeed, might do much; for there his lordship has fixed his theological Bedlam: but *church ambition*, he assures us, is of another mould; which, as it never failed, he says, to *aim at*, so it seldom failed to *obtain, immoderate wealth and exorbitant power.* What then are we to think? That his lordship meant, that *neither nature nor reason could ever lead men to imagine two distinct and independent societies in the same* COMMUNITY? for *community* being the genus, several *societies*, as the species, may, indeed, be contained in it. This, I

* See his Letter to Sir William Windham.

† Vol. iv. p. 412.

am

am ready to suppose, merely for my own ease; because when his lordship is well understood he is always more than half confuted.

In this paragraph, then, are contained these two propositions:

1. That the church does not compose a *society*.
2. That it does not compose a society *independent and sovereign*.

Let us examine his reasoning on these points as it lies in his works; for as disorderly as it lies, it is intended, I assure you, to overturn the whole theory of the *Alliance*.

"A RELIGIOUS SOCIETY (says his lordship) BY "WHICH IS MEANT, ON THIS OCCASION, A CLERGY, "is, or is not, a creature of the state. *If the first*, it "follows, that this order no more than others, which "the state has instituted for the maintenance of good "government, can assume any rights, or exercise any "powers, except such as the state has thought fit to "attribute to it, and that the state may and ought to "keep a constant controul over it, not only to prevent "usurpations and abuses, but to direct the public and "private influence of the clergy, in a strict confor-"mity to the letter and spirit of the constitution; the "servants of which, in a much truer sense, they are, "than what they affect sometimes to call themselves, "the ambassadors of God to other men. *If the last* "is said, if it be asserted, that the church is in any "sort independent on the state, there arises from this "pretension the greatest absurdity imaginable, that, "I mean, of *imperium in imperio*; an empire of di-"vine, in an empire of human institution *."

Thus far his lordship, who is here reasoning against

* Vol. iv. p. 413.

the principles laid down in the book of the *Alliance*. He introduces his dilemma with telling the reader, that the author of that book has defined a *religious society*, to be the *body of the clergy—A religious society, by which* (says he) IS MEANT ON THIS OCCASION A CLERGY, *is, or is not, a creature of the state**.

The reader cannot, I believe, see this assertion without some surprise, when he observes, that the author of the *Alliance* has defined a religious society to be A NUMBER OF RELIGIOUS BEINGS ASSOCIATED †.—When he observes, that the author makes it one of the principal cares of a religious society, to provide an order of men, to be set apart for ministring in holy things, or in other words, a CLERGY. "The "greatest care is to be had, that the acts of religious "worship be preserved simple, decent, and significa- "tive. But this can be done only by providing per- "sons set apart for this office; whose peculiar em- "ployment it shall be to preside in, direct, and "superintend the acts and services of religion," *&c.* ‡ —When he observes, that the author makes the *end* of religious society to be, *Salvation of souls*, and one of the *means*, the order of the *clergy*.—Lastly, when he observes, the author of the *Alliance* opposes the *church* and the *clergy* to each other. "It is unjust "in the CHURCH to aim at the propagation of religion "by force, and impertinent to aim at riches, honours, "and powers. But what motives the CLERGY OF A "CHURCH might have, is nothing to the purpose of "our inquiry. We have only to consider what the

* So again, *this order of men which we* CALL *the religious society*. iv. p. 440.—And again, *the religious society, as we have accustomed ourselves to* CALL *the clergy*. iv. p. 561.

† Alliance, p. 55, &c. ‡ Ibid. p. 60.

"CHURCH

"CHURCH had, WHICH, as a religious society, CONSISTS OF THE WHOLE BODY OF THE COMMUNITY, BOTH LAITY AND CLERGY*." Nay, the very Popish clergy, even DE MARCA himself, that *time-serving priest and great flatterer*, was more honest than his lordship chuses to represent the body of the *English* clergy, as he might have seen by the quotation at the bottom of this very page of the *Alliance*. ——ECCLESIÆ CORPUS, EX FIDELIUM OMNIUM COMPAGE CONSTITUITUR.

In a word, the author of the *Alliance* was at much pains to prove that a religious society, or *church*, does not mean the *clergy*, but the whole body of the faithful: and this for two reasons, for the sake of truth in general, and of his own system in particular.

1. It shocks common sense to call one order or rank in society, *the society:* it is little better than calling one of the qualities of a substance, *the substance.*

2. It subverts the theory of the *Alliance* to make the *clergy* constitute the *church:* for then the church could neither be a distinct society, nor independent; both of which it must be, to make it capable of an alliance with the state. It could not be a distinct society; for an order of men, as I observed just before, is the same in politics, as a quality is in physics; the one must inhere in a *society*, the other in a *substance:* and these being the substrata of the other, to talk of a distinct, much more, of the independent existence of an *order*, or of a *quality*, is the profoundest nonsense in politics and physics. But admitting such a church were capable of allying with the state, the author has shewn, in the place quoted above,

* Alliance, pp. 101, 102.

that its *motives* for allying would be such as the state could never comply with, either in justice or policy.

EXTREME necessity (to do his lordship all the right we are able) forced him upon this bold and violent falsification of the doctrine of the *Alliance*. He saw no other way of discrediting the opinion of an *independent religious society*, than by making it believed, that such a society would be an "*imperium in imperio, an empire of divine, in an empire of human institution*;" a mischief, against which the state is always on its guard. And if a religious society signified the church, and the church, only the CLERGY, the claim to independency would imply such an *imperium*. But the author of the *Alliance* goes upon other principles; he holds, that the church signifies the whole body of the faithful; that though this society be independent, yet, from its independency, no such solecism in politics can arise as an *imperium in imperio*. This argument, which the author has drawn out at large, the noble person, in the following words, misrepresents, perverts, and attempts to overthrow.

"An *imperium in imperio* (says he) is in truth so "expressly contained in the very terms of the asser- "tion, that none of THE TEDIOUS SOPHISTICAL "REASONINGS, which have been employed for the "purpose, can evade or disguise it. One of these I "will mention, because it has a CERTAIN AIR OF "PLAUSIBILITY, that imposes on many; and be- "cause, if it cannot stand a short and fair examina- "tion, as I think it cannot, the whole edifice of "ecclesiastical independency and grandeur falls to the "ground. It has been said then, that *religious and "civil societies are widely distinguished by the distinct "ends of their institutions, which imply necessarily "distinct powers and a mutual independency; that the*

"*end*

" *end of the one is the salvation of souls, and that* " *of the other the security of temporal interests;* " *that the state punishes overt acts, and can punish* " *nothing else, because it can have cognizance of* " *nothing that passes in the mind, and does not break* " *out into criminal actions; but that the church em-* " *ploying her influence to temper the passions, to re-* " *gulate the inward dispositions, and to prevent sins,* " *as well as crimes, is that tribunal at which even in-* " *tentions are to be tried, and sins, that do not ripen* " *into crimes, nor immediately affect civil society, are* " *to be punished* *."

This, I will suppose, his lordship intended as a fair representation of the author's argument for the *independency* of the church. But the argument, as it stands in the *Alliance*, is drawn from the different *powers* belonging to the two societies; as those *powers* are deduced from their different *ends*. But different powers implying different administrations, they create a mutual independency; and different administrations implying an incapacity of their clashing with one another, shew plainly that such an independency can never produce an *imperium in imperio*. This is the natural order of the argument, as it stands in the *Alliance*. Let us see now, how his lordship represents it. He begins rightly, with the different ends, *viz. Salvation of souls*, and *security of temporal interests:* but, proceeding to speak of the different *powers*, adapted to those different *ends*, *viz. coercion* in the state, and *persuasion* only in the church (from whence arises a mutual independency), he mistakes the CONSEQUENCES of these powers, which are *punishment of overt acts*, and *subdual of the passions*; he mistakes them, I say, for the *powers* THEMSELVES; from which

* Vol. iv. p. 413, 414.

consequences

*consequences* indeed no independency ensues; because *subdual of the passions* may, in his lordship's opinion at least, be obtained by coercive power, as well as *punishment of overt acts*. And if both societies have *coercive power*, one must needs be dependent on the other. I take notice of this mistake only to shew, what a poor and imperfect conception his lordship himself had of the argument of the *Alliance*. Had he told us, though in fewer words, that the author's reasoning against the pretence of an *imperium in imperio* arising out of a mutual independency, was this, that the state having *coercive power*, and the church having *none*, the administration of the two societies could never clash; so as to induce the mischief of an *imperium in imperio*; had he told this, I say, we should have seen, that at least he *understood* his adversary.

But let us consider how he goes about to answer what he so ill represents.

" Now, in answer to all this (says his lordship) WE " MAY DENY, with truth and reason on our side, that " the avowed ends of religious, and the real ends of " civil society, are so distinct as to require distinct " powers, *and a mutual independency*. The salvation " of souls is not the immediate end of civil society, " and I wish it was not rather the pretence, than the " end of ecclesiastical policy; but if to abstain from " evil and to do good works be means of salvation, " the means of salvation are the objects of civil go- " vernment. It is the duty of princes and magis- " trates to promote a strict observation of the law of " nature, of private and public morality, and to make " those, who live in subjection to them, good men, in " order to make them good citizens. For this pur- " pose, the balance and the sword are put into their " hands, that they may measure out punishment to

" every

" every one, who injures the community, or does " wrong to his neighbour, and a rigorous punishment " of crimes, especially if it be accompanied with re- " wards and encouragements to virtue, *for both are* " *intrusted to the same men*, is the surest way not " only to reform the outward behaviour, but to create " an habitual inward disposition to the practice of " virtue *."

*We may*, says his lordship, *deny that the avowed ends of religious, and the real ends of civil society, are so distinct.*—Here he contradicts his master LOCKE. This indeed is a small matter. I shall shew he contradicts truth, and the whole system of human affairs, both in the constitution of laws and in the administration of justice.—But before we come to that, there is a great deal to be done.—*We may*, says his lordship, *deny that the* AVOWED *ends of religious, and the* REAL *ends of civil society, are so distinct, as to require distinct powers and a mutual independency.* The *avowed ends*, does he say? *Avowed* by whom? Common sense requires he should mean, *avowed* by those who go upon the principles of the book of *Alliance.* But then he *might* have said *real:* for the *avowed* and the *real* ends are the same: he *should* have said *real*; for the fair use of the proposition, and the force of the argument drawn from it, both require this adjective. But by what he predicates of these *avowed ends, viz.* their *not requiring distinct powers*, we see he means *avowed* by corrupt churchmen. *(The salvation of souls* (says he, immediately after) *is rather the pretence than the end of ecclesiastical policy:)* and these *ends* are church uniformity for the sake of spiritual dominion. Now these *avowed ends*, I readily confess, cannot be obtained without *coercive power* of

* Vol. iv. p. 414.

the

the civil kind. Here then you have his lordship, after all his declamation against spiritual tyranny, coming at last in the true spirit of a free-thinking politician, to profess that religious persecution and coercive power are, in the order of things, as justly and reasonably employed in matters of conscience, as in the overt acts of civil life: now though this be altogether upon principle (for what should restrain a statesman, who believes nothing of the truth of religion, and sees all the mischiefs of diversity of opinions, from attempting to bring about an outward uniformity, by force?) yet the reader would not have *expected* it in this place, where his lordship is defending religious liberty, against the priestcraft of the *Alliance*; nor would you have *found* it, had not the distresses of controversy driven him into his native quarters, before his time. The *Alliance* went on this principle, that the church was a society, independent of the civil, as not having coercive power like the civil. To overturn this argument, his lordship was forced to deny the minor, and so unawares has brought in PERSECUTION as one of the natural powers of the church. But to compass this matter neatly, and without noise, he has recourse to his old trade, the employing, under an ambiguous expression, the *abuse* of the thing for the thing itself.—*The avowed ends of religious—the real ends of civil society*.—But it was so evident a truth, that the *salvation of souls* was the real end of religious society, and *the security of temporal interests*, the real end of the civil, that he must have lost his senses who could be brought to believe that *coercive power* was as proper to promote the first as the second; or that *instruction and exhortation* were as proper to promote the second as the first: one of which two things, his assertion, *that the church and state have not distinct powers*,

*powers*, necessarily implies: to disguise this absurdity therefore, for, *real*, which fair argument required him to use, he substitutes the ambiguous word, *avowed*, which his bad cause required him to abuse. And under this cover, he denies, that the two societies are *so distinct as to require distinct powers.*—Well, this however we understand; and have thoroughly considered. But what mean the words that follow?—AND A MUTUAL INDEPENDENCY. The author of the *Alliance* indeed had said, that the ends of the two societies were so distinct as to require *distinct powers.* But he was not so absurd to add—*and a mutual independency*; because, *independency* was not the MEAN of attaining an end, like *distinct powers*, but a CONSEQUENCE of those powers: for if the powers, by which two societies are administered, be different, those societies (seeing their administrations can never clash) must needs be independent on one another. This is given only as a fresh instance of the cloudy apprehension this great statesman had of a plain argument, the argument of the *Alliance*, built on the first principles of law and politics.

Let me now proceed to his reasoning. He is to prove, what he had asserted, that the two societies *are not so distinct as to require distinct powers.* He is writing against the book, or rather against the author of the *Alliance*; who lays it down as an acknowledged truth, that the end of the religious is *salvation of souls*; the end of the civil, *security of temporal interests.* To this his lordship replies, that salvation of souls is only the *pretended* end of the religious; but it is the *real*, though not *immediate* end, of the civil. And thus he has with great dexterity wiped out all distinction between the two societies. I have already detected both the fraud and the fallacy of the first part

of his assertion. I come now to the other, *that salvation of souls is the real, though not immediate, end of civil government.* Here the meanness of his sophistry is still more apparent, than in the former part. It stands thus,—"The *immediate* end of civil government is confessed, on all hands, to be *security of temporal interests.*—This is done by restraining men *from evil*, and exciting them *to good works—Good works are the means of salvation*—Therefore the *means of salvation are the objects of civil government*; or, in other words, the salvation of souls is at least the *real*, though *mediate* end of civil society."

The author of the *Alliance* had obviated all this paltry chicane in the following words:—"Civil government, I suppose, will be allowed to have been "invented for the attainment of some certain end or "ends exclusive of others: and this implies the necessity of distinguishing this end from others. Which "distinction arises from the different properties of "the things pretending. But amongst all those things "which are apt to obtrude, or have in fact obtruded, "upon men as the ends of civil government, there is "but one difference in their properties, as ENDS: "which is this, *that one of these is attainable by civil "society only, and all the rest are easily attained "without it.* The thing then with the first-mentioned "property must needs be that *genuine end* of civil "society. And this is no other than *security to the "temporal liberty and property of men* *."

But his lordship's sophism consists in the ambiguity of the word END; which either signifies the consequence or issue of a *mean*, simply; or, the consequence and issue, with intention and forethought. In the first sense it may be true, that salvation is the mediate

* Alliance, p. 42.

end

end of civil society; but then it is nothing to the purpose. In the second sense it is to the purpose, but not true. The civil magistrate, all men see, had not this consequence or issue in his thoughts; as is evident from hence, that, in adapting his punishments to the various species of unlawful actions, he doth not proportion them to the heinousness of the offence, as estimated on the principles of *natural* or of *revealed* religion, but to their malignant influence on civil society. A plain indication, that when he measured out punishments to offences, he had only *political* and not *religious* considerations in his view. But you shall hear what the Author of the *Alliance* has said on this subject, who had confuted his lordship's sophism even before he had conceived it.

" We have shewn (says this writer) that it was the " care of the *bodies*, not of the *souls* of men, that the " magistrate undertook to give account of. Whatever " therefore refers to the *body*, is in his Jurisdiction; " whatever to the soul, is not. But, and if there be that " which refers equally to both (as *morals* plainly do) " such thing must needs be partly within, and partly " without his province; that is, it is to be *partially* " considered by him; his care thereto extending so " far only as it affects civil society. The other consi- " deration of it, namely, as it makes part of religion, " being in the hands of those, who preside in another " kind of society. Again, with regard to civil practice; " if we cast our eye on any digest of laws, we find " that evil actions have their annexed punishment de- " nounced, not as they are VICES, *i. e.* not in proportion " to their deviation from the eternal rule of right: nor " as they are SINS, *i. e.* not in proportion to their de- " viation from the extraordinary revealed will of God; " which two things indeed coincide: but as they are

" CRIMES,

" CRIMES, *i. e.* in proportion to their malignant in-
" fluence on civil society. But the view in which the
" *state* regards the *practice of morality* is evidently
" seen, in its recognition of that famous maxim, by
" which penal laws in all communities are fashioned
" and directed, THAT THE SEVERITY OF THE PU-
" NISHMENT MUST ALWAYS RISE IN PROPORTION TO
" THE PROPENSITY TO THE CRIME. A maxim evi-
" dently *unjust*, were actions regarded by the state, as
" they are in themselves only; because the *law of na-*
" *ture* enjoins only in proportion to the ability of per-
" formance; and human abilities abate in proportion
" to the contrary propensities: evidently *impious*, were
" actions regarded by the state as they refer to the
" will of God, because this state-measure directly
" contradicts his method and rule of punishing. But
" suppose the magistrate's office to be what is here
" assigned, his aim must be the SUPPRESSION of
" *crimes*, or of those actions which malignantly affect
" society; and then nothing can be more reasonable
" than this proceeding; for then his end must be the
" good of the *whole*, not of *particulars*, but as they
" come within that view. But the good of the whole
" being to be procured only by the *prevention* of
" crimes, and those to which there is the greatest pro-
" pensity being of the most difficult prevention, the
" full severity of his laws must of necessity be turned
" against these *."

But, his lordship goes on to inform us, What those *means* are which princes and magistrates employ to procure this *mediate end* of civil society, the *salvation of souls*; and they are, he says, COERCIVE force.—*For this purpose, the balance and the sword are put into their hands, that they may measure out punish-*

* Alliance, p. 43, &c.

*ment*

*ment to every one who injures the community or does wrong to his neighbour. And a rigorous punishment of crimes, especially if it be accompanied with rewards and encouragements to virtue, is the surest way not only to reform the outward behaviour, but to create an inward disposition to the practice of virtue.*

Who would have expected that it should come to this at last, That a vigorous and exact distribution of rewards and punishments under the MAGISTRATE'S PROVIDENCE (which indeed is the only one his lordship thinks worth a rush) should be so far from *taking away merit and making virtue servile*, that it is the *surest way of creating an inward disposition to the practice of virtue!* i. e. the surest way of making virtue *free* and *meritorious*. When in the case of an *extraordinary Providence* he had affirmed, that "an "immediate and visible interposition of Providence, "in behalf of the righteous and for the punishment of "the wicked, would interfere with the freedom of "moral agents, and not leave room for their trial *," &c. There is something marvellously perverse in his lordship's reasoning. The exact distribution of rewards and punishments by heaven, makes virtue worthless and servile, though the administration of Providence be able to operate on the mind and intention, the only way if any, of *creating an inward disposition to the practice of virtue*; that is, of making it free and meritorious. While, on the other hand (if the reader will go on to give him credit), the exact distribution of rewards and punishments by the civil magistrate makes virtue free and meritorious, though the magistrate's administration be unable to operate on the mind and intention, and influences only the

* Vol. ii. p. 258, 259. and Vol. v. p. 428.

outward act; which is (if any thing can do it) to make virtue worthless and *servile.*

But to come to the point, which these observations naturally lead to. The very means his lordship assigns for the promotion of this imaginary end, namely, *coercive force* for *salvation of souls*, entirely subverts his principle, and shews that salvation of souls could be no end of civil society, since the *means* are in no wise calculated to promote the *end*; it not being action simply, which intitles to the favour of God, but action, upon proper motives. Now on these motives (which resolve themselves into what we call conscience) force, or coercion, has no influence. Force may make hypocrites, but nothing but the rational convictions of religion can make men lovers of virtue.

In a word, if it be by such kind of reasoning as this, that the *whole edifice of ecclesiastical independency and grandeur may be brought to the ground* (to use his lordship's big language) church power was never worth the rearing.

To proceed. His lordship, with much gravity, tells us next, that "A clergy might co-operate with the "civil magistrate very usefully, no doubt, by exhor-"tations, reproofs, and example.—This they might "do as assistants to the civil magistrate, in concert "with him, and in subordination to him. *To what "purpose therefore do they claim and affect indepen-"dency on him?* Greater power never did, nor can "enable them to do greater good. Would they erect "a tribunal to *punish intentions?* The very pretence "is impertinent. Would they erect it to *punish where "no injury is offered, nor wrong done?* The design "is unjust and arbitrary. The ideas of crimes are "determinate and fixed. The magistrate cannot

"alter

"alter them. The ideas of sins are more confused "and vague; and we know by long and general ex- "perience, how they vary in the minds, or at least in "the writings of casuists. Would they erect such a "tribunal *to try the orthodoxy of men's faith?* Such "a one is erected in some countries, under the name "of the inquisition, and is justly detested in all. To "what end and purpose then can SPIRITUAL COURTS "and COERCIVE POWERS, ATTRIBUTED TO THE "CLERGY, serve, unless it be to make them judges "and parties in their own cause, when matters of in- "terest are concerned *?"

His lordship, it must be remembered, is here reasoning with the author of the *Alliance*, against his notions of the rights of a clergy in an established church. And the noble person's first misrepresentation, we see, is, that amongst these rights, the claim of INDEPENDENCY on the state, during their establishment, is one; and that the coercive power exercised by them, under the alliance, is exercised as *inherent* in their order. *To what purpose* (says his lordship) *do they* [the Clergy] CLAIM AND AFFECT *independency on him, the civil magistrate?* And again, *To what end and purpose can spiritual courts and coercive powers*, ATTRIBUTED *to the clergy, serve?* And, as if this were not plain enough, in the very next page, addressing himself to POPE, he says, "Amongst all "the fallacies which have been employed by church- "men, one of the most absurd has been advanced, "though not INVENTED †, by a paradoxical ac- "quaintance

* Vol. iv. p. 415, 416.

† It was invented, it seems, by one Dr. Senior; of whose preaching about Moses and Aaron, he tells a curious tale, on the authority of his friend LEWIS; and from thence, he says, "War- "burton POSSIBLY took his HINT, and turned it to serve his pur- "pose,

"quaintance of yours," (meaning the author of the *Alliance*) "and it is to maintain the INDEPEN-"DENCY of the church, and to suppose, AT THE "SAME TIME, a sort of original contract between "the church and state, the terms of which, every "whimsical writer, EVEN THIS SCRIBBLER, adjusts as "he pleases *."

The Reader shall now hear what the author of the *Alliance* holds on these two points, and from his own mouth.

First, as to the *independency*.—"Let us see next "(says he) what the STATE gains by it [the *Alliance*.] "These [advantages] in a word may be comprized "in ITS SUPREMACY IN MATTERS ECCLESIAS-"TICAL. THE CHURCH RESIGNING UP HER IN-"DEPENDENCY, and making the magistrate her "SUPREME HEAD, without whose approbation and "allowance, she can administer, transact, or decree "nothing †."

Secondly, as to *coercive power*. "The third and "last PRIVILEGE THE CHURCH GAINS by this alli-"ance, is the being INTRUSTED WITH A JURISDIC-"TION, INFORCED BY COACTIVE POWER ‡."

His lordship assures us, the author of the *Alliance* holds, that the *independency* of the church is *retained* under an establishment: the author himself says, that it is *given up*. His lordship assures us, the author holds

"pose, *to banter mankind if he could*," &c. Vol. iv. p. 515. Warburton must have been very quick at taking a *hint*, since he tells us the sermon was preached before Charles II. at Newmarket, and conveyed to his lordship only by tradition. But he, who can falsify a book which is in every body's hands, deserves little credit for what he says of a sermon preached, as he tells us, *in the days of passive obedience*, and now existing only in the memory of old Mr. LEWIS.

* Vol. iv. p. 417. † Alliance, p. 153. ‡ Ibid. p. 145.

holds an *inherent coercive power* in the church; the author himself says, that *coercive power is a grant of the state*, during the alliance. Who now is the SCRIBBLER?

And here the Reader may observe, how greatly his lordship has improved upon his MASTERS, the authors of the *Rights of the Christian Church*, and of the *Independent Whig*. They had ventured indeed to charge both these doctrines on the body of the English clergy: But as one can never be sure what an indiscreet or corrupt member of so large a body may have said, the confutation of their calumny was not so easy. His lordship is more bold; he charges these opinions on a particular member of the established church, by name: but then he is more fair; he puts it in the power of the person injured to do himself justice; for it so happens, that this person not only denies the independency of the church under an establishment, and all claim to *inherent* coercive power whatsoever, but has laid down principles to discredit, and rules to prevent the return of, those usurpations. The author of the *Alliance* had vindicated the *English Clergy* * from the calumnious prevarications of TINDAL and GORDON; and without doubt it was not for want of good-will, that none of them have lent a charitable hand to vindicate *him* from the same calumnies, when revived by this noble lord.

As, therefore, no independency in alliance is either claimed or affected, and no *inherent* coercive power is attributed to the clergy; we will suppose his lordship's simple question to be, "For what end is that tribu-"nal, called a *spiritual court*, erected?" And had he been so candid to let the Author of the *Alliance*, to whom he directs his question, speak for himself,

* Alliance, p. 73, et seq.

he had not waited for an answer. For the author tells us, in the most conspicuous part of his book, and in great letters, that it is FOR REFORMATION OF MANNERS *only* *. But, as if the author of the *Alliance* had entirely left us to ourselves to conjecture how he intended to employ this *spiritual tribunal*, his lordship falls a guessing: and there is no kind of absurdity, he does not propose, as favoured by his adversary, though they be such as his adversary had formally exploded.

*To what purpose*, says his lordship, *do the clergy claim and affect* INDEPENDENCY *on the magistrate? Greater power never did, nor can enable them to do greater good. Would they erect a tribunal to* PUNISH INTENTIONS? *The very pretence is impertinent.*

Before I come to his lordship's *conjecture*, give me leave to say one word of his skill in *induction*. This *tribunal*, or this coercive power, which his lordship makes to follow *independency*, is so far from being produced by it, that coercive power never comes into the church till it has given up its *independency*. The author of the *Alliance* assigns a plain reason. "The "state (says he) having, by this alliance, bestowed "upon the clergy a jurisdiction with coactive power, "such privilege would create an IMPERIUM IN IM-"PERIO had not the *civil magistrate*, in return, the "*supremacy of the church conferred upon him* †."

And now, to his conjecture. Is it, says he, *to punish intentions?* The author of the *Alliance* says, no; it is for *reformation of manners only* But we shall not understand half his lordship's drift, unless we consider these questions as proposed to insinuate, that the author of the *Alliance* held the absurdities

* Alliance, p. 145. † Ibid. p. 154.

contained

contained in them. So here, for instance, we are to understand, that the author held that this tribunal was to *punish intentions*. However, I will acquit his lordship of malice; it seems to be a simple blunder. The author of the *Alliance* did indeed talk of a TRIBUNAL *regarding irregular intentions as criminal*; and by ill luck, the noble person mistook this tribunal for a SPIRITUAL COURT. The author's words are these—"The effectual correction of such evils [as "arise from the *intemperance of the sensual appetites*] "must be begun by moderating and subduing the pas- "sions themselves. But this, civil laws are not un- "derstood to prescribe, as punishing those passions "only when they proceed to act; and not rewarding "the attempts to subdue them. *It must be a* TRIBU- "NAL *regarding irregular Intentions as criminal* "*which can do this; and that is no other than the* "TRIBUNAL OF RELIGION. When this is done, a co- "active power of the civil kind may have a good "effect, but not till then. And who so proper to "apply this coactive power, in such cases, as that "society, which fitted and prepared the subject, for "its due reception and application*?" This *tribunal regarding irregular intentions as criminal*, the author calls the TRIBUNAL OF RELIGION (*forum conscientiæ*), and distinguishes it from that other tribunal, which is invested with *coactive power of the civil kind*, called SPIRITUAL COURTS: he makes the first a preparative to the other. Yet, strange to believe! his lordship mistook this *tribunal of religion*, so described and distinguished, for a *spiritual court*; and upbraids the author of the *Alliance* for supporting a *tribunal with coercive powers, to* PUNISH INTEN-

* Alliance, pp. 94, 95.

TIONS. But we shall see more of his lordship's wonderful Acumen as we go along.

His second charge against the principles of the *alliance* is in these words.—

*Would they erect this tribunal to punish, where* NO INJURY IS OFFERED, NOR WRONG DONE? *The design is unjust and arbitrary. The ideas of* CRIMES *are determinate and fixed. The magistrate cannot alter them. The ideas of* SINS *are more confused and vague; and we know by long and general experience, how they vary in the minds, or at least in the writings of casuists.*

*To punish where no injury is offered, nor wrong done,* is his lordship's periphrasis for the *punishment of vague lust*, which the author of the *Alliance* makes one branch of the reformation of manners, and consequently an object of spiritual courts. But his lordship's own opinion of the *quality* of vague lust, intimated in this periphrasis, is but a second consideration. His principal purpose in giving it, was to expose the tyranny of spiritual courts, in punishing where *no injury is offered.* For a lord to forget his BIBLE is a small discredit; but to forget his HORACE is a disgrace indeed. Now this honest Pagan reckoned the prohibition of *vague lust*, as one of the chief objects of *civil laws.*

Fuit hæc sapientia quondam
Publica privatis secernere, *sacra prophanis*;
CONCUBITU PROHIBERE VAGO; dare jura "maritis.

All this is so very extraordinary, that the Reader will not readily believe his lordship could design the *punishment of vague lust*, by the words—*punishing where no injury is offered nor wrong done*; nor would I neither,

I neither, did he not so clearly explain himself, in his curious distinction between CRIMES and SINS: which, because it was occasioned by, and alludes to, a passage in the *Alliance*, it may not be amiss previously to transcribe that passage: "If we cast our "eye on any digest of laws, we find that evil actions "have their annexed punishment denounced, not as "they are VICES, *i. e.* in proportion to their deviation "from the eternal rule of right: nor as they are SINS, "*i. e.* not in proportion to their deviation from the "extraordinary revealed will of God; which two "things indeed coincide; but as they are CRIMES, "*i. e.* in proportion to their malignant influence on "civil society*." I said this, to shew that the civil magistrate does not concern himself with religion, AS SUCH. His lordship borrows the same distinction between *Crimes* and *Sins*, to shew, that it is arbitrary and unjust to punish *sins*, as *spiritual courts* undertake to do: for, says he, *the ideas of* CRIMES *are determinate and fixed: The ideas of* SINS *are more confused and vague.* From this, it appears, that his lordship mistook *vices*, *sins*, and *crimes*, for different actions; whereas they are the same actions under different considerations: either as they respect *natural light*, *revealed religion*, or *civil laws*; and so have different names given to them. The *ideas* therefore of these three modifications of forbidden actions are all equally *determinate and fixed*, or all equally *confused and vague.* But it comes with a peculiar ill grace from his lordship to object to the *confused and vague ideas of* SINS, since this idea is formed upon the revealed will of God in the Gospel, which, in a hundred places of his ESSAYS, his lordship tells us, coincides with the eternal *rule of right*; a rule ac-

* Alliance, p. 44.

knowledged

knowledged by him to be the most determinate and fixed of all things.

But he says, *the* MAGISTRATE *cannot alter the ideas of crimes, as the* CASUIST *may, the idea of sins.* That is, the magistrate cannot give the name of crimes to innocent actions. What should hinder him? He had two advantages above the casuist: First, *coercive power:* Secondly, the *vague and confused* measure to which *crimes* refer; namely, to the influence of actions on society. Matter of fact confirms this observation. Look round the world; enquire through ancient and modern times, and you shall find that the *magistrate* has been guilty of infinitely more abuse in ranging actions under the idea of *crimes*, than the *casuist*, in ranging actions under the idea of *sins*. This was not improper to be observed in answer to his lordship's EXPERIENCE, which ushers in his old sophism, ready at every turn to help him out, the *abuse* of the thing, for the thing itself—*We know*, says he, *by long and general experience, how the ideas of sins vary in the minds, or at least in the* WRITINGS *of casuists.* By which it would seem, the noble author has as little acquaintance with *casuists*, as with any other sort of learned men, whose characters he has treated so LORDLY. For corrupt casuistry does not so much consist in *varying the ideas of sins* (concerning which they are generally agreed) as in contriving to evade the punishment denounced against them.

His last conjecture about the use of an ecclesiastical tribunal, on the principles of the *Alliance*, is, that it is erected for the punishment of opinions. *Would they erect*, says he, *such a tribunal to try the orthodoxy of men's faith?* Why no, says the author of the ALLIANCE, in as plain terms as he can speak;—NO MATTERS OF OPINION COME WITHIN THIS SPIRITUAL

TUAL JURISDICTION*: And he not only says it, but proves it too †.—*To what end and purpose then,* says his lordship, can *spiritual courts and coercive powers serve, unless it be to make the clergy judges and parties in their own cause, when matters of interest are concerned?—To what end?* The author of the *Alliance* has told him plainly and directly; FOR THE REFORMATION OF MANNERS ONLY. But such an answer did not serve his lordship's turn. He will make the author say as he would have him; or injoin him silence, and answer for him, himself. He insinuates therefore, in the last place, that the end aimed at is to determine in civil matters where the temporal interest of the clergy is concerned, and where they become judges in their own cause. Hear then what the author of the *Alliance* says upon this head likewise: "CIVIL MATTERS (in which, sure, matters of "property are eminently contained) which temporal "courts may conveniently inspect, can never belong "to an ecclesiastical jurisdiction. It hath been "shewn, that this court was erected as a succeda-"neum to the civil, to take cognizance of such actions "as the civil could not reach, or could not remedy: "which shew, the state could never intend to put "those things under the ecclesiastical jurisdiction that "fall most conveniently under its own.—Besides, for "ecclesiastical courts to engross matters that belong "to the civil jurisdiction, as it can possibly have no "good use, may very possibly be attended with this "evil, of inviting and encouraging the church to aim "at more power than is consistent, either with her "own good, or the good of the state.—The great "Founder of our religion said, *Who made me a judge "or divider between you?* And what he would not

* Alliance, p. 146. † Ibid. pp. 146, 147.

"assume

" assume to himself, he would hardly bestow upon his " church: and that the state should ever intend to " give her what was the peculiar right of temporal " courts, is as difficult to suppose. We must con- " clude then, that such practice, wherever it is found, " was derived not from the reasonable laws of this " *alliance*, but from the authority of old papal usur- " pations*." Thus far the author of the *Alliance*; where the reader may find a great deal more to the same purpose.

But his lordship goes on with his confutation.— " By admitting the independency of the church on the " state, the state acknowledges an original indepen- " dency in the church, derived from a greater autho- " rity than her own: and the supposed terms of *union* " may be construed to be rather concessions of the " religious society to the civil, for the sake of order " and peace, than grants of the civil to the religious " society. Thus religion and the church are set on " the same foot: no human authority can alter one, " but must receive it in *the terms* in which it has been " revealed; and so may a good casuist prove on this " hypothesis, that no human authority can measure " out any conditions of establishment to the other. " Thus the state becomes no better than a co-ordinate, " but inferior power†." I once met with a philoso- pher of deep thought, who professed the same reve- rence for artificial nonsense, that the Turks pay to natural folly. His system on this point was very singular. He supposed that, as in the *material* world there was an universal, though very subtile fire, dif- fused in secret through all bodies; which, by a late contrivance, might be allured or drawn out from the most inactive and lumpish matter; so, in the *intellec-*

* Alliance, pp. 147—149. † Vol. iv. p. 417.

*tual,*

*tual*, that there was a certain witty spirit, which lay dormant in the most inexplicable nonsense, and only wanted the application of some engine of analogous invention to rouse it, and set it free. Till such a one be discovered, we must search in the dark for his lordship's meaning.

*By admitting the independency of the church on the state* (says he) *the state acknowledges an original independency in the church derived from a greater authority than her own.* If, by *church*, he means the Christian church in general, it is confessed, that its independency is derived from a higher authority than what the state claims for any of its rights. The church holding of God immediately, and in an extraordinary manner; the state, only mediately, and in a common way. But what are the consequences his lordship would deduce from thence? The first is, that *then the supposed terms of union may be construed to be rather concessions of the religious society to the civil, for the sake of order and peace, than grants of the civil to the religious society.* The *supposed terms* are terms of alliance between two independent societies. These terms cannot, in the nature of things, be any other than MUTUAL *concessions* and MUTUAL *grants.* What then does he mean, by their being *construed to be rather concessions of the religious society than grants of the civil?* By the *supposition* on which his lordship condescends to reason, When the church in alliance gives up its *original independency*, it is without doubt a CONCESSION; because it is giving up a right: And when the state in alliance confers a *coercive power* on the church, this is certainly a GRANT; because an original independent religious society can have no inherent coercive power. However some meaning, it is likely, his lordship had: and perhaps it may be this,

" That

" That if the church have an original independency, no such *alliance* as is supposed could be made: for that the terms, on the side of the church, would not be conditional, but voluntary concessions, the state having nothing to give in return." This would be talking sense at least, though not truth. But, first to *suppose* the fact, that the terms of this union are mutual grants and mutual concessions; and then to deny mutual grants and mutual concessions, is giving such a form to his argument as will need a *first logic* to turn into sense, as much as the doctrine conveyed under it needs a *first philosophy* (as he calls these lucubrations) to turn into truth. Thus much however you may see; some cloudy conception his lordship plainly had, that a society of *divine* original could never enter into alliance with another, only of *human*. When the sons of God came down amongst the daughters of men, we are told they begot GIANTS. His lordship betrays his apprehensions, that this coalition between the civil and religious societies would produce an issue altogether as monstrous, a kind of STATE LEVIATHAN. Indeed, he charges the author of the *Alliance* with being no better than a pander or procurer in this intrigue. But whatever his apprehensions were, his conception was altogether unworthy both of a philosopher and a statesman. The AUTHOR OF THE ALLIANCE hath shewn from the nature of things, that religion composes an independent society: the GOSPEL, by divine institution, hath declared the Christian religion to be an independent society. His LORDSHIP hath shewn, from the nature of things, that civil wants create an independent society of the civil kind: and the LAW, by divine institution, hath declared the Jewish republic to be an independent civil society. Now I would ask his lordship this question; If nothing

hindered

hindered this *civil society of divine original* from entering into leagues and conventions with all the neighbouring nations, which were not, for political reasons, excepted by name; what should hinder this *religious society of divine original* from entering into alliance with the state?

Another consequence his lordship draws from an original independency in the church is, that RELIGION *and the* CHURCH *are set on the same foot.* That is, if I understand him right, for he might have expressed himself better, the DISCIPLINE of the church is as unalterable as the DOCTRINE: the inference from which is, that the *state must receive the* CHURCH *on the terms in which its faith was revealed:* from whence his lordship draws another consequence, that *no human authority can measure out any conditions of establishment to the church:* and, from thence another, (for his lordship's false conceptions are always attended with superfetations) that the *state becomes an inferior power, or creature to the church.* All these brave consequences, we see, arise out of this principle, "that, in a church of divine original, the *discipline* is "as unalterable as the *doctrine.*" And of the truth of this principle his lordship is so confident, that he calls his adversary a *stupid fellow* for not owning it. "The STUPID FELLOW, who advanced this paradox "in English, did not see how ill the parts of it hang "together, nor that if ecclesiastical government was, "by divine appointment, independent of civil, no such "contract as he supposes could be made. The re-"ligious society, notwithstanding their known mode-"ration, could not have parted from that indepen-"dency AND SUPERIORITY over the civil power, "which God had given them *."

* Vol. iv. p. 418.

It

It is true, this STUPID FELLOW did not see it. And I don't well know how he should; since, on the other hand, he saw it to be impossible that any *such contract as he supposes* could be made, unless the church or religious society were *independent* of the civil. For what *contract* is it, which I suppose to have been made between church and state? I tell the reader in express words, it is a *mutual compact by* FREE CONVENTION *. Now the entering into a *free convention* is at the pleasure of the contracting parties. But parties, who have this liberty, must needs be *independent* on one another.

Well, but he has his reason, such as it is, to confound this STUPID FELLOW. *The religious society* (says he) *could not have parted from that independency,* AND SUPERIORITY, *over the civil power, which God had given them.* And now indeed, after much cloudy flourishing, we are come to the point; which is, WHETHER A RELIGIOUS SOCIETY CAN PART WITH THAT INDEPENDENCY WHICH GOD, *as well as the nature of things,* HATH BESTOWED UPON IT? This is in truth a question worth debating: and the negative, as we have seen above, was the old Puritan plea against the King's supremacy. But as his lordship rarely suffers an important proposition, which he is set either upon denying or depraving, to pass through his hands without first perplexing it *in the expression,* with an absurdity or an equivocation, I shall be obliged, before we can pass forward, to free this from the BOLINGBROKIAN embarras. *The religious society* (says he) *could not have parted from that independency* AND SUPERIORITY *over the civil power which God hath given them.* Now, as the author of the *Alliance* contends only for the INDEPENDENCY of the church

* Alliance, p. 88.

*before*

*before alliance*, and as his lordship's reasoning confesses that the question is only concerning *independency before alliance*, he must needs suppose by adding, AND SUPERIORITY *over the civil*, that this *superiority* is a consequence of *independency*. And so, indeed, he speaks of it more plainly just before—*Thus*, [i. e. from the *independency* of the church] *the state becomes no better than a co-ordinate*, BUT INFERIOR, *power*. Now if we judge of this matter on the principles of the law of nature and nations, *superiority* is so far from following *independency*, that it cannot subsist with it. For why is religious society by nature *independent* (as I shew it is) but for the reason I give, that it is *essentially different* from the civil, *by having different ends and means* *? But there is no ground for superiority of one person or society over another, but where some *natural* relation or connexion exists between them: none such exists in this case; therefore a pretence of superiority on the one side, and of dependency on the other, is absurd. However, as I am well persuaded his lordship did not know enough of these matters even to PREVARICATE NEATLY in the point in question, I consider it as an innocent blunder, arising from the following words of the *Alliance*, shamefully, indeed, misunderstood.—"Such then is the nature of Christ's kingdom [*i. e.* "the Christian church]: it is essentially framed to "compose a firm and lasting society; it is made such "by divine appointment; and, in order to fit it for "public service, it is both by nature and institution de"clared SOVEREIGN, and independent of civil govern"ment, that it may adapt itself by *free alliance* to the "various kinds of human policies †." Now *sovereign in itself and independent of civil government*, this

* Alliance, pp. 62, 63. † Ibid. p. 174.

great writer hath paraphrased to signify, *independency and superiority over the civil.*

" Blest, for his sake, be human reason,
" Which came at last, though late in season *."

But, to proceed to the question; which is, WHETHER A RELIGIOUS SOCIETY CAN PART WITH THAT INDEPENDENCY WHICH GOD, *as well as the nature of things*, HATH BESTOWED UPON IT. His lordship determines in the negative. *For if*, says he, *ecclesiastical government was by divine appointment independent of the civil, the religious society could not have parted with that independency which God had given them.*

Man was, by *divine appointment*, made free and independent; therefore, according to this reasoning, he could not part with his *independency*, and become subject to civil laws. Hold, says his lordship, man was made free, that he might be subject to no laws but those to which he had given his consent; and as he needed protection from laws, he had a right to part with his independency, if he could get protection upon no other terms. And is not this the very case of the religious society in question, which is only an artificial man, by nature and institution free, and standing in need of protection?

But his lordship's assertion, you will find, bottoms at last upon this principle, that DIVINE AUTHORITY REDUCES ALL ITS LAWS TO ONE AND THE SAME SPECIES: an error which *bigots* and *fanatics* indeed are equally fond of indulging; and hath been indulged by them to the infinite disservice both of civil and of religious society: but that a *philosopher* and a *statesman* should know so little of the NATURE OF LAWS, is perfectly astonishing. The first elements of his pro-

* Prior.

fession

fession might have taught him, "That the *authority* " by which a thing is commanded, makes no alteration " in the *essence* of the thing." Natural and positive duties retain their respective natures in the code of religion. Natural duties are eternal; positive duties are revocable. Of these latter, some are lasting as the dispensation to which they belong; others only temporary. Of the temporary, some cease not till they are expressly revoked; others cease with the occasion that enjoined them. These last are again to be distinguished into *privileges* and *duties*; privileges may be receded from at pleasure; but duties must either be revoked, or the occasion must be plainly seen to cease. Now the INDEPENDENCY in question is one of those qualities in the divine law, which ceases with the occasion; and is, besides, a *privilege*, which may be receded from, at pleasure. Again, in the divine laws, some things are enjoined to be believed as truths; others, to be practised as utilities. Of utilities, some are general; others particular: the first of these are permanent and constant; the second variable. Of the first, is the church's composing a *society:* of the second, is its *peculiar mode.* Thus Jesus seemed to institute, for the then occasion, an equal ministry; the apostles, episcopal government; and modern churches have chosen one or the other, as best suited the various forms of civil regimen, with which they had *allied* themselves.

As christianity was, by divine institution, a *society at large*, to authorize and to enable the several churches to give particular forms to ecclesiastical government; so the *independency* was bestowed upon it, to enable it to enter into free alliance with the state. When God himself allied the Jewish church with the

state, he did not leave that religion a *society at large*; neither did he ordain it *independent:* he prescribed, in the minutest manner, the form of church government; and made it dependent on the state. But the book of the *Alliance* tells this story better. " The " Christian religion was not only left *independent* of " the state, by not being united to it like the Jewish " (and being so left it must needs by the law of nature " be independent); but its independency was likewise " secured by divine appointment, in that famous de- " claration of its founder, *my kingdom is not of this* " *world*; which bears this plain and obvious sense, " *that the kingdom of Christ, to be extended over all* " *mankind, was not like the kingdom of God, confined* " *to the Jewish people, where religion was incorpo-* " *rated with the state; and therefore,* of this world, " *as well in the exercise of it, as in the rewards and* " *punishments by which it was administered: but was* " *independent of all civil communities; and therefore,* " *neither* of this world, *as to the exercise of it, nor* " *as to the rewards and punishments by which it was* " *administered.*——But whoever imagines that, from " this *independency by institution,* the church cannot " convene and unite with the state, concludes much " too fast. We have observed, that this property in " the *Kingdom of Christ* was given as a mark to dis- " tinguish it from the *Kingdom of God,* that is, it was " given to shew that this religion extended to all man- " kind; and was not, like the Mosaic, confined to one " only people. Consequently, that very reason which " made it proper for the Mosaic religion to be united " by divine appointment to the state, made it fit, the " Christian should be left free and independent. But " for what end, if not for this, to be at liberty to adapt

" itself

" itself to the many various kinds of civil policies, by " a suitable union and alliance?—An alliance then " we must conclude the Christian church was at li- " berty to make, notwithstanding this declared nature " of *Christ's Kingdom.* So far is indeed true, that " it is debarred from entering into any such *alliance* " with the state as may admit any LEGISLATOR in " Christ's kingdom but himself [that is, a power in the " magistrate to alter DOCTRINES.] But no such " power is granted or usurped by the *supremacy* of " the state *:" [which extends only to DISCIPLINE.]

From all this it appears, that the *unalterable* part of the law of Christ is the DOCTRINE: and the only *alterable* part, the DISCIPLINE: but it is the latter, with which society, as such, is chiefly concerned, when it enters into *alliance* with the church. Therefore, when his lordship says, *Religion and the church being set on the same foot, no human authority can alter one, but must receive it on the terms in which it has been revealed;* if he means, there can be no alteration in *discipline,* I have shewn he is mistaken: if he means, there can be no alteration in *doctrine,* he is certainly right; and I must then consider his lordship's observation as a complaint that, by the constitution of the Christian church, the magistrate cannot tyrannize over conscience.

In the mean time, we see to what little purpose this great philosopher and statesman had read his HOOKER; of whom he confesses something is to be learnt. Now, HOOKER would have shewn him, that divine authority does not reduce all its laws to one and the same species——" Positive laws (says this truly great man) " are either permanent or else changeable, according " as the matter itself is, concerning which they were

* Alliance, pp. 172, &c.

" first made. Whether GOD or MAN be the maker of " them, ALTERATION they so far forth admit, as the " MATTER doth exact. Wherefore, to end with a " general rule concerning all the laws which God hath " tied men unto: those laws divine, that belong, " whether naturally or supernaturally, either to men " as men, or to men as they live in politique society, " or to men as they are of that politique society which " is the church, without any further respect had unto " any such variable accident as the state of men, and " of societies of men, and of the church itself in " this world, is subject unto; all laws that so be- " long unto men, they belong for ever, yea although " they be positive laws, unless, being positive, God " himself, which made them, alter them. The reason " is, because the subject or matter of laws in general " is thus far forth constant: which matter is, that for " the ordering whereof laws were instituted, and being " instituted are not changeable without cause, neither " can they have cause of change, when that which " gave them their first institution, remaineth for ever " one and the same. *On the other side, laws that* " *were made for men, or societies, or churches, in* " *regard of their being such as do not always con-* " *tinue, but may perhaps be clean otherwise a-while* " *after, and so may be required to be otherwise or-* " *dered than before; the laws of God himself which* " *are of this nature,* NO MAN ENDOWED WITH COM- " MON SENSE *will ever deny to be of a different con-* " *stitution from the former, in respect of the one's* " *constancy, and the mutability of the other* *."

So much for this country parson. And how poorly does his lordship figure before him with his assertion, that *divine law makes every thing, which relates to*

* Eccl. Pol. l. i. sect. 15.

*the*

*the church, equally unalterable?* Yet this noble haranguer, thus ignorant of the very first elements of law, can dictate with the authority of an oracle, and be received with the reverence due to one, concerning *civil liberty, church usurpations, a patriot king*, and the *balance of power*. But master Hooker will tell you how easily all this may be done by any one, without knowing more than their neighbours.

——" Thus far therefore (says he) we have endea-
" voured in part to open, of what nature and force
" laws are, according unto their several kinds: the
" law which God himself had eternally set down to
" follow in his own works; the law which he hath
" made for his creatures to keep; the law of natural
" and necessary agents; the law which angels in
" Heaven obey; the law whereunto, by the light of
" reason, men find themselves bound, in that they
" are men; the law which they made by composition
" for multitudes and politique societies of men to be
" guided by; the law which belongeth unto each na-
" tion; the law that concerneth the fellowship of all;
" and lastly the law which God himself hath super-
" naturally revealed. *It might peradventure have*
" *been more* POPULAR AND MORE PLAUSIBLE TO
" VULGAR EARS *if this discourse had been spent in*
" EXTOLLING THE FORCE OF LAWS, *in shewing the*
" GREAT NECESSITY OF THEM, *when they are* GOOD,
" and in AGGRAVATING THEIR OFFENCE BY WHOM
" PUBLIC LAWS ARE INJURIOUSLY TRADUCED.
" *But forasmuch as with such kind of matter* THE
" PASSIONS OF MEN *are rather stirred one way or*
" *other, than* THEIR KNOWLEDGE *any way set for-*
" *ward* unto the trial of that whereof there is doubt
" made, I have therefore turned aside from that
" BEATEN PATH, and chosen, though a LESS EASY,

" yet a more profitable way, in regard of the end we " propose *."

Great names, however, are still of good use to his lordship: for though he cannot profit by their lights, he can shine at their expence: and, having well chicaned their expressions, can afterwards convert the truths contained in them to his own use. Let me give you, out of many, one example of this kind. HOOKER and LOCKE have been supposed to write tolerably well on the origin of civil government. Alas; *nil sine theseo.* There is nothing so well done, which his lordship cannot mend. He reproves both of them, with much solemnity, for *representing mankind to themselves, like a number of savage individuals out of society, in their natural state, instead of considering them as members of families from their birth.* " This (he says) has made them reason INCONSIS- " TENTLY, and on a FALSE FOUNDATION. *Incon-* " *sistently*, because they sometimes acknowledge " paternal government to have preceded civil, and yet " reason about the institution of civil, as if men had " then first assembled in any kind of society, or had " been subject to any kind of rule; for to say that the " law of nature was of itself such a rule, and that " every one of these independent inhabitants of the " earth did or might exercise justice for himself, " and others on those who violated the law, was lan- " guage unworthy of Mr. LOCKE, and unnecessary " to his system.——*Falsely*, because it is easy to " demonstrate that mankind never was in such a " state †."

To say the truth, *easy* enough, and like *demonstrating* day-light. A man need only open his eyes to see that a mother does not abandon her infant as

* Eccl. Pol. l. i. sect. 16. † Vol. v. p. 125, 126.

soon

soon as she has dropt it, nor the father immediately renounce the care of it and her. Is it possible then that HOOKER, LOCKE, and their followers, should want to be told by his lordship so obvious a truth, that, before civil society, mankind did not start up like mushrooms, a number of savage individuals at once, but came as they could be got, and entered as they were born, into tribes and families. Why then, you ask, did not HOOKER and LOCKE so consider them, when they were deducing the origin of CIVIL SOCIETY? For very important reasons; and, one would think, very obvious ones.

First, because the real origin of civil society being equally shewn on either supposition, the truths which followed from it were clearer seen, as they were less embarrassed, by considering mankind before civil society, as individuals.

But this was not all. Had they considered men before civil society, as ranked under tribes, the *rights* belonging to the heads of families, thus brought into view, though neither relative to, nor connected with, those of a civil kind, might have too much countenanced that absurd system, which derives a *political* rule from *patriarchal*; a system which, both for its absurdities and mischiefs, it was the purpose of LOCKE and HOOKER to expose and discredit. The former therefore did judiciously, to assert, as he might do it truly, (for the *exercise of justice* no more belonging to fathers of families, as such, than the *exercise of regal prerogative*) that, before the institution of civil society, *every one of these independent inhabitants of the earth did, or might, exercise justice for himself and others, on those who violated the law.* Yet this, his lordship calls language unworthy of his master. Nay, so great a stranger is he to this whole matter, that he declares the

the representation to be UNNECESSARY: whereas we see it was done to keep the unwary from the sight of circumstances of no use to assist their judgment, and easily abused by designing men, to mislead them *.

—But to proceed with our subjects. His lordship goes on against the book of the *Alliance* in this manner. "This imaginary contract, in short, whether well or "ill made, never existed at any time, nor in any "country; though, to have been real, and really au- "thorized, it should have been the same at all times "and in all countries where Christianity was propa- "gated. Political societies make and alter and break "their *alliances*, as the varying reason of state sug- "gests. Different orders of civil government in the "same society change, and with them the whole con- "stitution of such governments, as reason or passion, "the interests or the dispositions of men determine "them. *But a religion given by God is in its nature "invariable.* And therefore if a religious society, "with certain privileges, immunities, and prerogatives, "be necessary to preserve it so, the *order and consti- "tution* of such a society must be *invariable* too. The "CHURCH must be established by the same divine "authority as the RELIGION, and be by consequence "independent of the state. But nothing of this kind "has been. Christ's *kingdom was not of this world.* "He sent out his apostles to teach, and to baptize; "and the utmost power he gave them, besides that "of working miracles to convince and to convert, "was to shake off the dust of their feet, and to pro- "test against the infidelity of those who refused to "receive them, and the Gospel they published. The "apostles ordained others to accompany and to suc- "ceed them in the same office, the office of teaching

* See Alliance, p. 54; and Note (E) p. 80.

"and

" and baptizing. The apostles could give no more " power than they received; and no argument *of* " *right* can be drawn from any thing that passed, or " from any thing that these men did for the mainte- " nance of their sect, while Christianity was a sect *."

*This imaginary contract* (he says) *never existed at any time or in any country.* If he means, a *contract* actually and formally executed, I have answered that already, and shewn, that the objection holds equally against *the original contract between king and people*; which I suppose his lordship will allow not to be so *imaginary* but that the prerogative of the one, and the rights of the other, ought every where to be regulated on the conditions ascribed to it. But you shall hear the book of the *Alliance* on this matter.

" † When I say that *all* regular policied states had " *an established religion*, I mean no more than he " would do, who, deducing civil society from its true " original, should, in order to persuade men of the " benefits it produces, affirm that all nations had a " *civil policy.* For as this writer could not be sup- " posed to mean that every one constituted a free " state, on the principles of public liberty, which yet " was the only society he purposed to prove was " founded on truth, and productive of public good; " because it is notorious, that the far greater part of " civil policies are founded on different principles, or " abused to different ends; so neither would I be un- " derstood to mean, when I say all nations concurred " in making this *union*, that they all exactly discrimi- " nated the natures, and fairly adjusted the rights of " both societies, on the principles here laid down; " though an *establishment* resulting from this discrimi- " nation and adjustment be the only one I would be

* Vol. iv. p. 419, 420. † Alliance, pp. 104, 105.

" supposed

" supposed to recommend. On the contrary, I know " this union has been generally made on mistaken " principles; or, if not so, hath degenerated in length " of time; by which means the national religion in " the Pagan world hath been most commonly a slave " to the state; and in the Christian system, the state " sometimes a slave to the established church. And as " it was sufficient for that writer's purpose, that those " societies, whether good or bad, proved the sense " all men had of the benefits resulting from civil po- " licy in general, though they were oft mistaken in the " application; so it is for ours, that this universal " concurrence in the two societies to *unite*, shews the " sense mankind had of the usefulness of such an " *union*. And lastly, as that writer's principles are " not the less true on account of the general deviation " from them in forming civil societies; so may not the " plain ones of *alliance* here delivered; though so few " states have suffered themselves to be directed by " them in practice; nor any man before delivered " them in speculation; especially if, as in that case, " so in this, we can derive such *mistake* and *degene-* " *racy* from their causes. It would draw me too far " out of my way to explain distinctly the causes of " the *mistake*; and the intelligent reader, who care- " fully attends to the whole of this discourse, will not " be at a loss to discover the most considerable of " them; some of which I have already hinted at; and " others, I may possibly, in the sequel of this dis- " course, take occasion to mention. As for the *de-* " *generacy*, we have observed, that the *Alliance* is of " the nature of the FŒDERA INÆQUALIA: now, the " common issue of such, *Grotius* acquaints us with, " in these words: *Interim verum est accidere plerum-* " *que, ut qui superior est in fœdere,* SI IS POTENTIA

" MUL-

" MULTUM ANTECELLAT, PAULATIM IMPERIUM " PROPRIE DICTUM USURPET: PRÆSERTIM SI FŒ- " DUS PERPETUUM SIT *."

But if, by, *never existed*, his lordship means, that the mutual rights and privileges of either society, which naturally follow such an *alliance*, were never actually exercised and enjoyed by the two societies, his assertion is false. They are at this present actually exercised and enjoyed by the two societies, in ENGLAND, under our happy constitution of church and state. And it was a principal purpose of the book of the *Alliance* to shew they are so, in order to realize the theory. Here again it may not be improper to give the Reader the words of the *Alliance*: " We see how unreasonable and even how impolitic " our adversaries are, when, in their ill humour with " *establishments*, they chuse to pick a quarrel with " their own; where the national religion is on a foot- " ing exactly agreeable to the nature of a *free conven-* " *tion between church and state*, on the principles of " the laws of nature and nations. A felicity, they " should have known, that scarce any other people " on the face of the earth can boast of. In *England* " alone the original terms of this *convention* are kept " up to, so exactly, that this account of the *alliance* " *between church and state* seems rather a copy of " the church and state of *England*, than a theory, as " indeed it was, formed solely on the contemplation " of nature, and the unvariable reason of things †."

*To make this contract* (says his lordship) *real, and to be really authorized, it should have been the same at all times and in all countries where Christianity was professed.* In plain terms, RIGHT waits to recive its

* De jure Belli et Pacis, Lib. i. cap. iii. § 21.

† Alliance, pp. 165, 166.

nature

nature from man's acceptance of it: or, in still plainer, *Right* becomes WRONG when rejected by him. How would this political aphorism of his lordship's sound when applied to the ORIGINAL CONTRACT between prince and people?—*to make it real and to be really authorized, it should have been the same at all times and in all countries, where civil rule had been introduced.*

But *political societies* (he says) *make and alter and break their alliances as the varying reason of state suggests.* If he would be here meant to speak of such which make these alterations *justly*, the same may be said of the *alliance between church and state.* I have shewn that, in this respect, the alliances of political societies with one another, and the alliance of the political with the religious, stand just upon the same footing. " If there be more religious societies " than one at the time of convention, the state allies " itself with the largest of those religious societies. " It is *fit* the state should do so, because the larger " the religious society is, where there is an equality " in other points, the better enabled it will be to " answer the ends of the alliance. It is *scarce pos-* " *sible* it should be otherwise, because the two so- " cieties being composed of the same individuals, the " greatly prevailing religion must have a majority of " its members in the assemblies of state, who will " naturally prefer their own religion to any other. " Hence we see the reason why the *episcopal* is the " established church in *England*; and the *presbyte-* " *rian* the established church in *Scotland.* Hence " too we see the reason of what was before observed, " concerning the duration of this alliance; that it is " *perpetual*, but not *irrevocable:* i. e. It subsists " just so long as the church thereby established main-

" tains

" tains its superiority of extent; which when it loses " to any considerable degree, the alliance becomes " void. For the united church being then no longer " able to perform its part of the convention, which is " formed on reciprocal conditions, the state becomes " disengaged; and a *new alliance* is of course con- " tracted with the now prevailing church, for the " reasons which made the *old.* Thus formerly, the " alliance between the *Pagan church* and the empire " of Rome was dissolved; and the *Christian* es- " tablished in its place: and of late the alliance " between the *Popish church* and the kingdom of " England was broken; and another made with the " *Protestant*, in its stead *."

*Different orders of civil government, in the same society, change* (says his lordship); *and with them the whole constitution of such governments, as reason or passion, the interests or dispositions of men determine them.*—And is it not the same in Church-government? It is here Episcopacy; there Presbytery; and in another place Independency.

But, *a religion given by God is in its nature invariable.* In its DOCTRINE it is. Yes, and in its DISCIPLINE likewise (says his lordship), and thus I prove it. *If a religious society with certain privileges, immunities, and prerogatives, be necessary to preserve it so, the order and constitution of such a society must be invariable too.* The inference is just. But what principle of the *alliance* (against which his lordship is here arguing) supposes, that *one certain set of privileges, immunities, and prerogatives,* is necessary to preserve a religious society in that state and condition? This theory says, that religion composed a society before it had any of those *privileges, immunities,*

* Alliance, pp. 242—244.

*and*

*and prerogatives*; and will remain a society after it has lost them. For it had none of them till it came into alliance with the state, and will hold none of them longer than that alliance continues. But, if by a strange liberty of expression his lordship means, by *privileges, immunities, and prerogatives*, only CHURCH-GOVERNMENT in general, so far forth as it is a society; I own that this is *necessary to preserve a religious society* in the state and condition of a society: But then, give me leave to say, it does not follow from thence, that *the* ORDER *and* CONSTITUTION *of such a society must be invariable too:* Because Church-government may be administered by an Episcopacy, a Presbytery, or an Independency. The specific form of Church-government amongst the Jews was prescribed, and therefore intended to be invariable, because *Moses* united the religion to the state, under the collective name of LAW: The specific form of Church-government amongst Christians was not prescribed, and therefore none seems intended to be invariably followed, because *Jesus* did not unite his religion to the state, but left it to particular churches to follow such as were most agreeable to the forms of those civil societies, in which they were to be established. For this purpose it was sufficient that *Jesus* instituted his religion, a *society*, by directing the members of it to *hear the church*, and by appointing officers, as its organs, to convey its decisions. On this matter it may not be improper again to hear the book of the *Alliance*, which, speaking of the *Jewish* and *Christian* churches, says, " This, Both had in common, to be " political societies by divine appointment; but dif- " ferent in this, that GOD, for *wise ends*, minutely " prescribed the whole mode of *Jewish* policy: and " CHRIST, on the contrary, with the same divine " wisdom

" wisdom, only constituted his church a policied " society at large, and left the mode of it to human " discretion*."

Those *ends*, the book explains, in another place. " The *Jewish* religion was, like the true *natural* " (which it ratified), essentially fitted to compose a " society; and, like the *Christian* (of which it was " the first rudiment), made a society by divine ap- " pointment. But then unlike the Christian, in this, " that it was not left independent of civil government, " to unite with it at its pleasure, on terms agreed " upon; but was for great and wise reasons at once " united to it, by God himself. Which also he was " pleased to do, not by way of *alliance* as between " two bodies that were to continue distinct, and " might be separated, but by mutual conversion into " one another, and perfect incorporation †."

His lordship then owns, that if *the church be established by the same divine authority as the religion* (that is, if religion be formed into a society) *it is by consequence independent of the state.* I am apt to suspect, he here grants more than he is aware of: for it follows from this concession, that if the Christian religion even composes a society by natural right, though not by divine appointment, it must be *independent* of the state: because the *independency* does not arise from the authority which formed it, but from the *nature* it possesses: and the author of the *Alliance* hath shewn ‡ that religion composeth a society by natural right. His lordship's endeavour therefore to avoid the *consequence*, its *independency*, by affirming that *the church was not established by the same divine authority as the religion*, would be to no

* Alliance, pp. 163, 164. † Ib. p. 171, 172. ‡ Book I. Ch. V.

purpose even though he could have proved it. However, let us hear how he supports his assertion.

His first argument is the declaration of *Jesus* himself, that *his kingdom was not of this world.* The question is, Whether *Christ*'s religion composes a society, and a society independent? And his lordship quotes a declaration of *Jesus* to prove it does *neither*, which, in the very terms, implies that it does *both.* For what is a *kingdom*, but a *society?* And what is the *not being of this world*, but a declaration of *independency?* Indeed, the author of the *Alliance* employed the *subject* of the proposition, *Christ's kingdom*, to prove it was a SOCIETY; and the *attribute*, its not being of *this world*, to prove, that church and state are INDEPENDENT of one another. For were *Christ*'s religion a *kingdom of this world*, the consequence would be, that either the state is *dependent* on the church, or the church on the state; because, in that case, both having COERCIVE POWER (as all *kingdoms of this world* have) a mutual *independency* would make that solecism in politics called, IMPERIUM IN IMPERIO: Whereas, *Christ's kingdom not being of this world*; and *his apostles*, as his lordship rightly observes, having *no power (besides miracles) but that of teaching, exhorting, and protesting against infidelity*, *i. e.* having no COERCIVE power, there remained no pretence for its *dependency* on the state.

His lordship's second argument against the *independency* of the church is, that *Jesus sent out his apostles to teach, and to baptize; and the utmost power he gave them, besides that of working miracles, to convince and to convert, was to shake off the dust of their feet, and to protest against the infidelity of those*

*those who refused to receive them, and the Gospel they published. The apostles ordained others to accompany and to succeed them in the same office of teaching and baptizing. The apostles could give no more power than they had received.*

1. He is to prove that the Christian religion did not compose a society by institution. And how does he set to work? With an argument which shews it to be a society by *institution*, and without *coercive* power, the very society which the author of the *Alliance* contends for. *Jesus sent out his apostles—they ordained others to accompany and to succeed them.* Here a society is plainly instituted; for you find officers appointed; and these provide for a succession.—*The utmost power they had was to teach and baptize those who willingly received the Gospel.* Here all *coercive* power is excluded; and that exclusion makes the society *independent.* What more may be inferred from this account (and which his lordship should have inferred) is, that though a society was instituted, yet the particular form of church-government was left to human discretion: But his lordship could find no society of Christ's appointment, where he saw no particular form of church-government minutely marked out, as in the Mosaic dispensation. Though, had he found any such, it would, when he least suspected it, have been most to his purpose: for of such, and only of such, he might have said truly, that being *given by God* [for that purpose] *it is in its nature invariable.*

2. His observation, that the *apostles could give no more power than they had received,* insinuates that the author of the *Alliance* contended for *inherent coercive power* in the church; which is a gross misrepre-

sentation of this author; who expressly affirms that the church hath no such power, while *unallied*; and when *allied*, receives it in a very limited manner from the state; and enjoys it no longer than the *alliance* continues. But these misrepresentations are things essential to his lordship's polemics. So again, "To "pretend (says he) that the church has a right to "the former [*i. e.* wealth and grandeur] by *compact* "or by virtue of an *alliance* with the state, would be "to say whatever comes uppermost in a WHIMSICAL "HEAD *." This is to insinuate that the author of the *Alliance pretends* that the *wealth and grandeur* of the church necessarily arises from its *alliance* with the state: But let him speak for himself, and you shall hear him saying the direct contrary—*the acquisition of honours, riches, and power, could not be a motive for alliance.* His reason is, that *it would be impertinent in a church to aim at them, because they are things a church could neither use nor profit by* †.

His lordship concludes this long paragraph in these words—*No argument of right can be drawn from any thing that passed, nor from any thing that these men* [the Apostles] *did for the maintenance of their sect, while Christianity was a sect.* His lordship here forgets, as usual, the personage he at present assumes, which is that of a believer, who supposes, the apostles acted, in all things, by the direction of their Master: consequently, *an argument of* RIGHT MAY *be drawn from every thing that passed, and from all they did, in support or maintenance of their sect, while Christianity was a sect.* It is true, if we suppose the apostles to be politicians like his lordship, or a sort of men who put in practice all kind of means to support and maintain their cause or party, no argument

* Vol. iv. p. 604. † Alliance, pp. 100, 101.

ment *of right* can be drawn from any thing they did or said. But when God directs the actions and organs of his ministers in the propagation of religion, we are assured, from the knowledge we have of his attributes, that no rights of humanity or society will be violated; and consequently that from every such action, *an argument of right may be drawn.*

If, indeed, his lordship meant no more in this profound observation, than that, from what the apostles did to assert and maintain the *independency* of Christ's religion while it remained a SECT, *no argument of right can be drawn* to prove it must continue *independent* when it becomes ESTABLISHED, I perfectly agree with him: and I have but one objection to the understanding him in so reasonable a sense, which is, that it supports the theory of the *Alliance*; a purpose, I presume, not in his lordship's view. Besides, it contradicts what he so much labours to prove, That, if the *independency* of the church was of divine institution, the church could not give it up, when it entered into alliance.

In a word, the whole of his lordship's reasoning against an *alliance between church and state* from the *nature of a church*, may be reduced to these four propositions:

1. If Christianity be not a society by divine institution, it is no society at all.

2. If Christianity be an independent society by divine institution, it could not give up its independency to the state.

3. If Christianity be a society by divine institution, a certain form of church-government must be explicitly prescribed.

4. If such a form be explicitly prescribed, then that form, and the discipline which attends it, must be as unalterable as the doctrine; which is contrary to the genius of the supposed alliance.

Now I have shewn, that every one of these four propositions is utterly devoid of all truth, reason, and common sense.

After these exploits, nothing was wanting to make his lordship's victory complete against ALLIANCES and ESTABLISHMENTS, but to discredit that first and most famous one of all, made by CONSTANTINE. "This "great revolution (says his lordship) was effected in "part by circumstances I have mentioned, and by "others that favoured the growth of Christianity. The "imperial authority did the rest, but did it ill; so ill, "that the chief of those political views which Constan- "tine had in making this ESTABLISHMENT were de- "feated by it, and the admission of a religious society "into the state, in the manner in which he admitted "it, was the cause of all the ecclesiastical and theo- "logical evils that have followed from his time to "ours, and *that are so falsely imputed to religion "itself**. We may be assured, that the SOCIETY "co-operated with the COURT, to bring about a re- "volution so much to their advantage; and thought "themselves happy enough to be *dependent*, not *inde- "pendent* on the emperor; his *instruments*, not his "*allies*, whatever appearances he might give, or suffer "them to assume, in those solemn ecclesiastical farces, "wherein he condescended to act, in some respects, "a second part.—But while he recalled to his mind, "as he did most probably, the great service religion

* And, strange to tell, by no one so much as by his lordship himself, throughout all his bulky posthumous works.

"was

" was of to ancient Rome, he seemed to forget, that " when that religion flourished, and was of so much " service to the state, it was under the immediate in- " spection of the state. There was no council but " the senate to define doctrines, nor to regulate dis- " cipline. And men were at the head of the religious, " because they were at the head of the civil, admi- " nistration; instead of being at the head of the latter, " because they were at the head of the former.—He " [*Constantine*] meaned that this [spiritual power] " should be distinct from the civil; THAT THEY " SHOULD BE INDEPENDENT OF ONE ANOTHER, " and both dependent on him *."

That noblest part of legislation, to adjust the rights and privileges, to settle the bounds and limits of the TWO SOCIETIES, *to know*, as the Poet expresses it,

" Both spiritual power and civil, what each means,
" What severs each †" - - - -

his lordship, we have seen, is much a stranger to. Indeed every new paragraph makes his ignorance but the more conspicuous, by his endeavouring to disguise it; for his attempts are generally made at the expence of a contradiction.

In the establishment of religion under CONSTANTINE, the church, he says, became dependent on the supreme civil magistrate. *They thought themselves happy enough to be dependent, not independent on the emperor; his instruments, not his allies.* Yet, in the same breath, he tells us, that this very emperor was contented to *act a second part* to these his *instruments*, or, in other words, to become *theirs:* Nay, he expressly affirms, that Christianity was on another footing in new Rome, than Paganism had been in the old:

* Vol. iv. p. 432—445. † Milton.

Now Paganism, he tells us, was the *instrument* of the supreme magistrate. Christianity then must be an *ally*, not an *instrument*, to the supreme magistrate. His lordship says, this establishment was *very ill made*: however that be, every body sees it is *very ill* represented. It was and it was not an *ally*; it was and it was not an *instrument*.—*It defeated all Constantine's political views, all the good he intended.* Were his premisses true, the consequence was likely enough to follow. We have an example before us, in his lordship's *Essays* throughout, that his *contradictions* can *defeat* all the evil he *intended*; and this (let me add to the honour of his lordship's abilities) is doing something more; for malice is not so easily defeated as benevolence.

But if you ask, Why, in this account of CONSTANTINE'S establishment, the church is one while made the *instrument*, and another, the *ally* of the civil magistrate? I will tell you. His lordship had decried the ALLIANCE both in *fact* and *right*. There never was, he says, in FACT, such an alliance. To countenance this assertion, CONSTANTINE'S establishment must be represented as being made on different terms; terms whereby the church became the tool and instrument of the civil magistrate. But then again, he was to shew that such an alliance was not of RIGHT, as being very mischievous to the state: This turns the tables; and then CONSTANTINE must *mean that the spiritual power should be distinct from the civil, and that they should be* INDEPENDENT OF ONE ANOTHER (for he all along misrepresents the theory of the *Alliance*, as making the church keep its *independency* even after the union) indeed he says—and *both dependent on himself* *; but this was added

* Vol. iv. p. 445.

only

only to soften the absurdity.—To such wretched shifts do his principles ever and anon reduce him: the religious and the civil society are independent of one another; yet the religious is dependent on the supreme magistrate; *i. e.* on him who represents the civil society, and is at its head.

But now let us examine the ground-work, the canvas, of this curious paragraph, without any particular regard to the embroidery of his contradictions.

He says, *the church was happy enough to be dependent,* NOT INDEPENDENT, *on the emperor; his instruments,* NOT HIS ALLIES. This sentence is made up of a false insinuation, and a mistaken consequence. The false insinuation is, that the Author of the *Alliance* holds, the *independency* of the church on the magistrate during an establishment. The mistaken consequence is, that if the church be *dependent*, it is the Instrument, not the Ally, of the state. But GROTIUS, as he is quoted in the book of the *Alliance*, might have set his lordship right in this matter. "This "(say I) is what GROTIUS calls *fœdus inæquale.* "Inæquale FŒDUS, hic intelligo quod ex ipsa vi pac- "tionis MANENTEM PRÆLATIONEM quandam alteri "donat: Hoc est ubi quis tenetur alterius imperium "ac majestatem conservare, ut POTENTIORI PLUS "HONORIS, inferiori plus auxilii deferatur. *De jur.* "*B. & P.* L. i. c. iii. sect. 21.*." Hence we see, in the opinion of this great man; great by nature, great by discipline, and not *made great*, after the modern mode, in the workhouse of vanity and faction; we see, I say, that *alliance* and *dependence*, are very consistent things.

*In ancient Rome*, says his lordship, *there was no council, but the senate, to* DEFINE DOCTRINES, *nor to*

* Alliance, p. 88.

REGULATE

REGULATE DISCIPLINE. Now in ancient Rome it so happened, there were no DOCTRINES to define *. And as to DISCIPLINE, this was regulated not by the senate, but by the colleges of the priests. When the senate imagined the necessities of state required the observance of religious rites, they sent to the priests for their directions concerning the choice and regulation of them. The senate were the masters, whether they would have any celebrated; but if they had decreed for a celebration, they were tied down to the rules and directions of the sacred books, as the sense of them was represented and interpreted by the priests.

This conferred so much power on the priesthood in civil matters in the opinion of Cicero, that he does not scruple, in the person of his brother, to say,— "in quâ et reges, augures, et postea privati eodem sacerdotio præditi, rempublicam religionum auctoritate rexerunt †."

When the Romans had entered on a war with Philip of Macedon, "Senatus decrevit (they are the words of Livy) uti consules majoribus hostiis rem divinam facerent *quibus diis ipsis videretur*, cum precatione ea: quam rem," &c. He then tells us that the consuls made their report to the senate; and there we find the part their priests had in this matter— "Quum pronunciâssent consules; rem divinam RITE perfectam esse, et precationem admisisse Deos ARUSPICES RESPONDERE, *lætaque exta esse* et prolationem finium, victoriamque et triumphum portendi."— L. xxxi. c. 5. But the state further ordered that the consul, to make the Gods propitious, should according to old custom make a vow; and on this occasion

* See Div. Leg. b. ii. sect. 6.

† De Divin. l. i. c. 40.

we

we have a more explicit account of the share the old Pagan church had in this matter, by which we find it was not the senate, but the college of priests which regulated discipline, or, if his lordship will have it so, DEFINED DOCTRINE. "Civitas religiosa (says the historian) ne quid prætermitteretur, quod aliquando factum esset; ludos Jovi, donumque *vovere consulem* jussit *moram voto publico Licinius pontifex maximus attulit*, qui negavit ex incerta pecunia vovere debere. Si ea pecunia non posset in bellum usui esse; reponi statim debere, nec cum alia pecunia misceri. *Quod nisi factum esset, votum* RITE *solvi non posse.* Quanquam et res, et *auctor movebat*; tamen ad COLLEGIUM PONTIFICUM *referre* consul jussus, si posset *recte* votum incertæ pecuniæ suscipi. Posse rectiusque etiam esse, PONTIFICES DECREVERUNT. Vovit in eadem verba consul, *præeunte maximo pontifice**." Again, by the Papirian law all consecrations of houses, lands, or altars, to RELIGION, were forbidden, without the express command of the people. But then, when the people had commanded it, the ceremony could not be performed by a tribune, or any other civil magistrate, but by one of the college of priests only. Which was just such a supremacy of the state in religious matters, as that which is exercised in England, and justified on the principles of the ALLIANCE.

On the whole, his lordship assures us, that CONSTANTINE *established the church very ill.* It would indeed appear so from his account of it; which when set against the principles of the ALLIANCE, it either much shames *Constantine's establishment*, or at least the noble reporter of it.

* L. xxxi. c. 9.

1. CON-

1. CONSTANTINE *made the church* (his lordship says) *his instruments, not his allies.* The ALLIANCE makes the church the ally, and not the instrument, of the civil magistrate.

2. CONSTANTINE *placed men at the head of the civil administration, because they were at the head of the religious.* The ALLIANCE places men at the head of the religious, because they were at the head of the civil administration.

3. CONSTANTINE *did not take to himself the title of supreme head of the church under God and Christ.* The ALLIANCE makes the supreme magistrate head of the church under God and Christ.

4. CONSTANTINE *gave riches and coercive power to the church, without assuming this supremacy or headship.* The ALLIANCE, when it gave riches and coercive power to the church, conferred the supremacy on the civil magistrate.

His lordship's conclusion from this long and suspicious story of CONSTANTINE, is this, that he and his successors raised that "spiritual tyranny, which was "established and grown into full strength before "CHARLES THE GREAT*." And what could we expect less, when, if his lordship reports truly, every term in the *Alliance* was violated or neglected? This was just as natural as that civil tyranny should grow to a head, when the terms of the *original compact* between prince and people, had not been adverted to, or observed? In a word, the mischiefs which his lordship pretends did follow from *Constantine's establishment*, would, if true, be the best recommendation of the *theory of the Alliance*; a theory formed,

* Vol. iv. p. 446.

as

as it were, and fitted to avoid and guard against them: it has in fact done so, and rendered our present constitution of church and state the most happy and prosperous of any on the face of the earth.

At last, as if on set purpose to recommend the *theory of the Alliance*, his lordship concludes his section concerning CONSTANTINE in these words: "Thus it seems to me that the great and fundamental error, from whence so many others proceeded, and which CONSTANTINE COMMITTED IN THE ESTABLISHMENT OF CHRISTIANITY, was this, *he admitted a clergy into an establishment, on the same foot, on which this order had stood, while Christianity was the religion, and these men were the heads, the directors, the governors, and magistrates of a sect, by no authority, but that of the sect itself.* He admitted them vested with this authority, which might be necessary as long as Christians made a sect apart, out of the protection of the laws; and which became unnecessary and dangerous, when Christianity had a legal establishment.—The conduct of Constantine on this occasion must needs appear extremely absurd to every one who considers the consequences it had *." Can there be a greater encomium on the principles of the ALLIANCE? The *fundamental error* of CONSTANTINE's establishment was, it seems, suffering the Church to RETAIN ITS INDEPENDENCY. The fundamental condition of establishment on the theory of *Alliance* is, that the Church shall GIVE UP its INDEPENDENCY. But all this is only taking advantage of his lordship's mistakes concerning CONSTANTINE'S ESTABLISHMENT.—A man who understood this part of ecclesiastical history infinitely better than his lord-

* Vol. iv. p. 438, 439.

ship,

ship, gives a very different account of it.—" Etsi enim ecclesiam (says Mosheim, speaking of *Constantine)* civitatem quandam a republica distinctam in civitate, qualis ante ipsum fuerat, manere patiebatur: SUPREMUM sibi tamen in hanc civitatem IMPERIUM, atque jus eam sic constituendi et temperandi, uti salus reipublicæ posceret, sumebat*." And again,—" Multa quæ totius ecclesiæ fuerant, ad imperatores eorumque præsides et magistratus transierant." We see here an abridged but exact description of the *Alliance between Church and State:* And one is much better pleased to have our theory recommended on the authority, than at the expence, of that great instrument of Divine Providence.

After this, would you expect to hear him return again to his abuse of the ALLIANCE? " The sole " intention and sole effect of [the theologic system of " the schools] was to establish an ecclesiastical em- " pire, under that spiritual monarch the Pope, and " his spiritual ministers the clergy. THIS WAS THE " EFFECT OF THAT SUPPOSED ALLIANCE BETWEEN " THE CHURCH AND STATE †."

Before, it was CONSTANTINE *and his successors, who raised that spiritual tyranny*‡: and it was done, he says, by means of *his establishment*; which suffered the church to retain its INDEPENDENCY, *and admitted it on the same foot on which it has stood while it was a sect* §. But now, it is the *supposed* ALLIANCE *between church and state* which raised this spiritual tyranny; an alliance which will not suffer the church to retain its INDEPENDENCY; nor *admit it on the same foot on which it stood while it was a sect.*

* Instit. Hist. Eccl. p. 155.
† Vol. iv. p. 621, 622.
‡ Vol. iv. p. 446.
§ Ibid. p. 438.

We

We have seen such amazing instances of his lordship's CONTRADICTIONS, as not to be surprised at the boldest of them. Sometimes, when rapt in a fit of rhetoric, he does, by his *contradictions*, what the man in the play did by his *ingratitude*, he strives *to cover the monstrous bulk of them*, by a proportionable *size of words**; sometimes again, to shew his utter contempt of the public, he chuses to follow the advice there given; *to let them go naked, whereby men would see them the better*. But, when he masks his double face, the FALSIFICATION of the *theory of the Alliance* always affords him the best play. He constantly takes it for granted, or avouches it for a fact, throughout his whole argument against the book, that the author contends for and maintains the *independency of the church on the state, under an establishment*. This brings CONSTANTINE's establishment, as he has represented it, and the establishment on the principles of the ALLIANCE, pretty much to the same thing; so that the mischiefs ascribed to one may be safely transferred to the other.

And here, Reader, in conclusion, the odd fortune of this book of the ALLIANCE is worth thy notice. It had been written against by many nameless scribblers, before his lordship: and had their force been equal to their fury, its innocence had been no protection to it. *Their daggers hacked one another*†, *not in the sides of my system*, but in the unfeeling fronts of the assassins themselves. Three capital crimes had been imputed to it. One, that it established an *imperium in imperio*; another, that it made the church a creature of the civil magistrate; and a third, that it made the civil magistrate a creature of the church: while one shameless fellow, as I remember, in a thing he called

* Timon of Athens. † Shakespeare.

a *Com-*

a *Comment on the Alliance*, charged it with all these three crimes at once: so that his *lordship*, whose care is for the STATE, and my *dissenting adversaries*, who are as anxious for the CHURCH, will come in but for shares in the full merit of that illustrious Commentator.

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London: Printed by Luke Hansard and Sons, near Lincoln's-Inn Fields.

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